App. F. IX-4

Previous References.

1942. Law.

File No. 257-42

Serial Nos. 1-19

Later References.

GENERAL AND REVENUE SECRETARIAT

Serial Nos. Nineteen.

(60)

Part B for May 46.

SUBJECT

O.S. No. 45/42-43 on the file of the D. C. Bangalore, Parsee Anjuman and Corp. of Mysore

578. Law 18/12/45.

To

The District Judge, Kolar.

The suit was dismissed with costs on 21-2-46

D. R. Purushotham.

1-7-46.

O.S. no. 45/42-43 on the file of the D.J. Bangalore
(Bangalore parisee Zorastrian Anjuman & Ors Vs Govt of Mysore)

File No.
Current No. of Page.

Letter No. XX 2127 dated 27th April 1943 from the District Judge Bangalore forwarding for service and return of the original the defendant's summons in O.S. no. 45/42-43 on his file

Law file 177-42 dealing with the notice referred to in para. 15 of the plaint is herewith but upto. it has been ordered therein that the threatened suit may be awaited (vide paras 5 and 6 in that file)

Submitted with the usual three drafts for approval and [illegible]

19/5

P. 8577/ dated 19.5.43 issued to the Govt Pleader Bangalore requesting him to appear in the case

P. 8578/ dated 19.5.43 issued to the D.J. Bangalore returning original as with due endorsement thereon

P. 8579/ dated 19.5.43 issued to the Re. calling for a report in the matter with the [illegible] records.

Letter no 1093/ dated 21st May 1943 from the Govt Pleader Bangalore forwarding for signature and return the Vakalat filed on behalf of Govt in the above case.

1) It is stated that the case stands posted to 21st June 1943 for the filing of written statement

2) The Vakalat flagged 7" is herewith

1253/8682-8819
G S 45/42-43 on the file of the D J Bangalore
Parcel Argument & Court of Ellesore.

Continuation Sheet. File No. Current No. of Page.

put up for issuing orders to the Chief Secretary in favour of signature at the place marked "x" in pencil.

24/5

CHIEF SECRETARY
25 MAY 1943
GOVT. MYSORE.

May I submit
Kindly be signed
Chief Secty
24/5/43

he Revenue Branch
ays Kindly put up
previous papers
on the subject.

8) Advable and fair to a letter to the Govt Mad
Bangalore returning the Vakalat and forwarding
for his reference certain secretariat collections
the Revenue Court's Office file received with his
letter no C-6684/ dated 31st May 1943 is put up
for approval and signature

Kelly
4/6.

2-8900/ dated 4th June 1943 covered by the
Govt Madras forwarding for his reference
certain files and collections and also returning
the Vakalat received from him duly signed

letter no 418/ dated 17th June 1943 from the
Govt Madras forwarding for signature of the
Chief Secy two copies of memo of particulars
required Office file in the case

O.S. no 45/42-43 on the file of the D.F Bar E.K. Palakar another Vs Chief Sec Govt

Continuation Sheet. File No. / Current No. of Page.

Hearing date 21st June 43

9) As directed a neat copy of the memo of particulars received from the Govt Pleader Bangalore is hereunto put up for being submitted to the Chief Secretary for favour of signature at the place marked "X"

Kuva 17/6.

10) The Govt Pleader has asked for some particulars from the Dept. I think they are necessary. The letter may be approved, & after approval, it may be submitted to the Chief Secretary for his signature

Law Secretary 3/17/6

12930 17 JUN 43 GOVT OF MYSORE

Hon Minister may see if he likes.

11) Chief Secy 17/6/43

Chief Secy 3 17/6/43

EDUCATION LAW DEPT 14246 1943

12) Sir Law (Govt/360/Genl/42) 17/6/43

Adraft & fair for letter to the Govt Pleader Bangalore ... up for approval

Issued 18

Kuva 18/6

D.9180/ dated 18.6.43 issued to the Govt Pleader Bangalore returning the memo of particulars duly signed.

Current No.

(If) Submitted with a draft reply for a letter returning the W.S. & records to the Court Reader Bangle

14/7

P 293 dated 14-7-43 from the Court Reader Bangle returning written statement & records

---

Letter No 76 dated 28-7-43 from the Court Reader Bangalore forwarding a copy of the application filed by the plaintiff for discovery and inspection of certain documents

Letter no ____ Dated ____ from the Court Reader Bangalore forwarding the connected records and stating that some of the documents referred to in his letter may be produced and requesting that enclosures if any may be produced before the Court

I. C. S. Reader Bangle

9311 √507 √792 √1589.

6545/42-43 on the file of the D of RC

Continuation Sheet. File No. / Current No. of Page.

that he will take an adjournment in the case on 6th August 1943

Xerox 26) Copies of the documents required are 4/8. herewith submitted.

Xerox 6/8 27) Submitted with a draft letter to the Govt Pleader Bangalore for approval or other order

Jn 3/8/43

Xerox 12/8. 13/8/43

P.1088/ dated 14.8.43 issued to the Govt Pleader Bangalore forwarding Copies of the required documents and the connected records.

Letter no. 161/ dated 25.8.43 issued to the Govt Pleader Bangalore forwarding a copy of objection statement filed in the above case!!

23) Submitted for perusal and orders.

Xerox. 27/8.

28/8/43 24) One copy of remarks of the statement is placed in the file and submitted for orders It is noted at the top of the first page that the case stands posted to 4-10-43 for the filing of Rejoinder.

Xerox 28/9 28.9.43 25) Discussed with the R.I.M.S. & Called for particulars in respect of the facts contained in Para 2 (c) of the reply Statement, which was given back to the Bldg Sy after receiving the particulars called for.

26) A typed copy of the respondent's post-trial orders

Mag. S. respondent's drafts

27) after discussion with Law Rep's

it may be approved.

Law Secretary) 3

3/11/

Cus

28) 3

29) As the respondent Mag. S has not been

called known as the first quarter Cust.

it may kindly be signed.

Chief Secretary) 3

3789 ✓ 5139 ✓ 541

C. S. No. 45 of 42-43 on the file of D. J. Bangalore

Continuation Sheet. File No. / Current No. of Page.

33) It is mentioned that the pleadings in the case have been obtained from the Govt Pleader Bangalore, and copies of such of them as are not available in the file will be made and kept in the file for reference.

34) A draft to the District Treasury Bangalore returning the original written Os is submitted for approval.

Next Hearing date 14-2-1944

28/1

35) 28/1/44

P. 4920 / dated 4-2-44 issued to the D. J. Bangle returning original written Os with due endorsement of service thereof

Memo. No. P. 4971 / dated 4-2-1944 issued to the Govt Pleader, Bangle forwarding the duplicate W S. for necessary further action -

Spl. C

Kelle 4/2

Letter No. 558 / dated 4-2-1944 from the Govt Pleader Bangle an objection statement and application in the above case for signature and return -

36) The objection statement marked W⁴ and the application marked W⁵ are put up for orders

Kelle 5/2

37) The Pltfs have obtained a Certificate of Sale in their favour in Civil Suits in Karachi 1 four are in Bombay But before such an application is granted, we have to dispose of the present application, as the Issues have raised by us be first decided & then the application considered. By settling the Issues the scope of the enquiry to be held in civil Suit determined

C. S. No. 145/42-43 on the file of the District Judge, Bangalore

E. K. Pillai and another Vs. Govt of Mysore

Continuation Sheet. File No. 6020 Page 143

Current No. 5409 of 5846

7213 √ 2523

O. S. no. 45 of L. 2-1.2 (1) n

cener no. D.O. 306 dated 30.9.44, from the Govt. Pleader, Bangalore, forwarding a certified copy of the order passed by the Addl. Dt. Judge, Bangalore, on I.A. no. 3 in the case and stating that the Govt. may file a revision petition against the order, if it so chooses.

5) Submitted for perusal. The order in question is one passed on an application filed by the ~~plaintiffs~~ under O. 26, R. 4 C.P.C. for the ~~issue of a commission~~ examination of certain witnesses residing outside the Mysore State on Commission. The application was allowed and it was ordered that the Plaintiffs were entitled to get the witnesses examined on commission. The Govt. Pleader has sent the copy of the order with the suggestion that the order in question may be taken before the High Court in revision, if the Govt so chooses.

Hg. Int
25-10-'44.

For order

6) According to the order passed in the case, a Commission has to issue to examine the witnesses residing in Karachi, Bombay & Poona

Jss
7.10.'44.

7) In our written statement we have urged more than 15 items even

all the Plaintiff allegations are true, Exh the
Pltffs have no right either to claim ownership or
possession of the disputed property, which
in the present circumstances has
resort to post of either of the 1922 or
It is at this point that is very essential
important in the trial of the whole
case.

48) Post has very little to do,
with customs, usage of the parties
concerned. Even the post-post of
view this evidence is irrelevant & we have
useless, but irrelevant to have
raised this issue,
of the Court to frame that issue before
history into other issues raised
Court. But the Post-post can over
[illegible]

S-1) As per Memo: Petitioners to be filed, we will have to take steps in the case, back is for Evidence a. 25.10.

S-2) The G.P may be asked to ~~issue~~ obtain a report from Court about a fortnight's request time to file an affidavit ~~to~~ a proper Counsel to conduct the case on their behalf, & also to see if any witness on their side also have to be examined as Court"

Law Secretary) 3 25/10/44

SECY. LAW DEPT. 3290 20 OCT. 1944 GOVT OF MYSORE

S-3) Ans 20/10/44

S-4) Put up a draft letter

S-5) Draft letters herewith put up for approval.

M. 28/10/'44.

S-6) Jm today 3 28/10/44.

P 2362, dated 23.10.'44, issued to the Govt. Pleader, B'lore.

424

Letter No. ~~35-29~~, dated 6.11.'44, from the Govt. Pleader, B'lore, giving the list of witnesses to be examined on behalf of the Plaintiffs and the list of persons suggested by the Plaintiffs to act as Commissioners in Bombay and Karachi and requesting that the names and addresses of witnesses which the defendant wishes to examine on its behalf may be furnished to him; and further suggesting that Mr. K. P. Pomeyer may be deputed to instruct the Counsel at Karachi & Bombay as he is conversant with the customs and practices of Parsees

59) Mr Karachiwala is to be examined on behalf of the Commissioner, as to objection C, viz: the Commissioner selected, Sir C. H. Katrak is a very old person, of 80 years, & on that ground selection of Sir Sorab Katrak, ex-Chief Justice may be the Commissioner or Justice Mr Chagla

59) As to: Bombay - no objection either for the visit or the Commissioner's selected

60) So far as our case is concerned, we would like to examine in Bombay (1) Justice Bose

61) (2) Mr J. G. Daraporewalla in support of the points raised by petitioners

62) As it is to be an open Commission, the Government suggest a responsible officer of Govt. of Bombay to depute to place the Govt point of view before the Commissioner, we enclose a Bombay Chronicle dated 3-8-49 containing the statement of Mr Kanga, Advocate General of Bombay & Mr Karachiwala. Both are solicitors on this point.

3

O.S. 45/42-43

D.A.G. B'ne.

63) Instead of open commission witnesses may be examined by interrogatories of persons residing out of the possible Local Pleaders will have to be engaged & instructions must be sent from here.

GS
6/11/43

64) Put up a draft as above.

8/11/43

1) Draft letter to the Govt. Pleader herewith put up for approval.

8/11

8/11/43

O. S. No. 45-J42-43; D. J Bangalore

67) The application (flagged D.) may be submitted to the Chief Secretary for his signature.

applicant party as directed may be informed

Asst Secretary 10/11/44

May I myplease be signed [illegible] 10/11/44

Chief Sec

70) 10/11/44

71) Draft for forwarding the application herewith put up for signature

10/11/44

10/11

P 2777, dated 10.11.'44, issued to the Govt. Pleader B'lore, returning the application duly signed

Letter No. G. P. 450, dated 13.11.'44, from the Govt. Pleader, Bangalore intimating that the Commn examination is ordered to be by open commission and requesting that arrangements may be made for deposition Rs 100/- for the examination as Commissioner as a first instalment.

72) Submd. for perusal and orders the D.C., is one will be asked to do the needful in the matter

16.11.'44. Draft put up for approval.

3824

O.S. no. 45 of 42-43, Dt. Court, B'lore

73) The Govt. Pleader wants Rs 100/ ~~to be~~ to be deposited in the first instance in Court, for the expenses to be incurred in getting a Commission to Bombay Karachi ~~Ahmedabad~~ ~~deposited accordingly~~ to take any of the 6 to be deposited in time, the D.C. may be requested to ~~speak~~ ~~to~~ take the steps to issue any to expedite. The D.C. is the Chairman of the Committee the Dist. may be informed

Law Secretary) 3 17/11/44

74) W 20/11/44

75) Issue 20-11-44

No. 3078, dated 23.11.44, received from the D.C., Bangalore Dt., requesting him to send the necessary amount to the Govt. Pleader.

Letter no. G.P. 579, dated 13.12.'44, from the Govt. Pleader forwarding a copy of his letter addressed to the Registrar, Court of Small Causes, Bombay, and stressing the necessity of immediately deputing an Officer of Govt. to attend to this matter (examination on Commission) in time.

6) Subd. for perusal and orders.

77) Law Secretary) 3 13/12/44

3/12 78) Take necessary action at once W 13-12-44

25235 47 07

O.S. 45 of 42-43, Ht. Court, Bangalore.

The Govt Pleader suggested in his previous letter (flag R) the desirability of deputing an Officer of Govt. Conversant with the customs and practices of Parsees to go to Bombay and Karachi and engage Counsel there and instruct them properly. It was then decided to engage Local pleaders at the places in question and to give instructions to them from here (Vide para 63,

Now the Govt. Pleader stresses the need of deputing a suitable Officer immediately to attend to this matter in view of the present developments in the case.

Subd. for orders on this point.

Sr.
14/12

Sr.
14/12

I had a talk with the Law Secretary on the matter when the case was present & it was decided that we may await the receipt of the Register of Issues, Court-fee & other papers by Bird, & then

Mr B. V. K. has today produced the letter of the Wadia, stating that Rustom Jagpat of Jagpat & Co Solicitors has been selected to appear for the case. Mr. A. Chary of Mr Bhide will have to be in the High Court

[illegible] arranged that this [illegible] will take place probably on the 23rd and I must begin then the Vakalatnama please be ready.

I herewith produced the Vakalat for signature by the Chief Secretary.

The Secretary of the Commission Mr H. J. Heather says that the expenses for the Commission will be borne by the Non-Official members of the Committee, including himself

He wishes to get the Vakalat signed and sent to Bombay.

Your Secretary 3
18/12/44

A journal letter from Mr. Mansergh may be taken, agreeing to bear the expenses

Vakalat may be signed

Yours

Chief Sec
18.12.44

Chief Sec
3

For Journal, Mr Pye
Sir V. back the Vakalat
duly signed.
Min R & D)

Secretary Letter Vakalat

Your Secretary 3
18/12/44

WC 18/12/44

WC 18/12

O.S. 45 of 42-43, Dt. Court, Bangalore. 5312/44 5513/45 1377

Gopal Vchalet deed to be B.V.M.
Through Govt. P.C.C. to be posted
& Regd Post - to Govt Pleader Gopal.

3
28/12/44

Letter no. 615, dated 26.12.'44, from the Govt. Pleader forwarding Copy of a letter received from Messrs. Gopal & Co. in the Case and also Copy of his reply thereto for the information of Govt.

Subd. for perusal

Sen
3
5/1/45

Inf.
4/1/45

W.
4/1/45

Letters nos. 54 and 125 dated 2.7.45 and 2-8-45 respectively from the Govt Pleader Bangalore requesting that the suit was posted to 31.7.45 and 16-8-45 respectively

Submitted for perusal
& to give the report on the progress of the suit may be awaited

Asst
3
27/8

6
24/8/45

O.S. No. 45-gh2-45, D. J. B'bay
(The B'bay Parsi Zoroastrian Anjuman Vs The Govt. of Bombay)

Letter No. XX 1307, dated nil, forwarding summons for the production of certain documents mentioned therein

The D.J. has sent summons for the production of certain documents. ~~The~~ The description of the documents in the summons is very insufficient and does not furnish any clue as to which branch of the Zoroastrian Sect. they pertain. Hence ~~they~~ the Ds. will be returned to the Court unserved with a request to send fresh summons with fuller particulars of the documents in question so as to enable the Govt. to trace them.

Draft letter to the D.J., B'bay, for approval

Forwarded
for 24/11

229/ Laws, dated 23.11.'45, issued to the D.J., B'bay.

TYPING SECTION
23 NOV. 1945
GEN. & REV. SECTN

Letter No. XX 1493, dated 10.12.'45, from the D.J. B'bay, forwarding summons for the production of certain documents mentioned therein on 14.12.'45.

Summons is issued for the production of certain documents before Court on 14.12.'45. But the summons

239/658/731

Re: O.S. no. 45/42-43, D.J., B'lore

was received in this Office on 13/12/45
13-12-'45. As sufficient time was
not allowed the Court to trace the docum
and produce them, the summons will be
returned unserved, if appeared.

Draft letter to the D.J., is for appr
ival is solicited:

W.
7/12

Jo
17

578/Law, dated 18.12.'45, issued to the
D.J., B'lore, returning the summon unserved

Letter no. 652, dated 15.12.'45, from the
S.P., B'lore, intimating that the Plaintiff
has closed his case and that Govt. have
to begin the defence case and requesting that
an Official of the Secrt. may be deputed
to meet him to go through the papers etc.

The Govt. Pleader requests that an
Official of the Secrt may be deputed to meet
him to go through the papers and appear in
Court to give evidence with reference to documents
etc. The case is posted to 26.12.'45 -
Submd. for orde

W.
18/12

Mrs. Pampapathy was
was present attending to the

Law 257-42

735 - 1299 1747

No 45/42-43, D. J., Bangalore
File No. of Page
Current No. (Kalia & another Vs. Govt. of Mysore)
– Writ Case.

papers were sent. in this case may be disposed of as desired by the G. P.

Law Secy) 18/12

He may be deputed to assist the G.P at an appointed time on a date fixed for the purpose if possible. after without prejudice to the office work

DL
19/12

20/12

Letter no. 834, dated 23.2.'46, from the G.P., B'lre, intimating that the suit was dismissed with costs on 21.2.'46 and returning the connected records.

Submitted for perusal

DP.
15/3/'46.

Law Secy) 16/3

Min. Law] 8/3
16/3.

8/4

8/3
11/3.

11/3

'D 02819—GPP—8,325—10-7-41

Law 257-42-1

7213/42 p 42

Civil

Form No. 105

R 5221

FROM The District Judge, Bangalore Division, Bangalore 194

To The Chief Secretary,
The Government of Mysore, Bangalore

SIR,

I have the honour to forward herewith defendant Summons, in duplicate in original Suit no 46/42-43 No.

of 19 on the file of this Court and to request that you will be so good as to cause the duplicate to be served on the individual therein named and the original returned to this Court with due endorsement of service thereon, on or before the date of hearing: viz. 20.5.43

A sum of Rs. is herewith sent, being

I have the honour to be,

Sir,

Your most obedient servant,

THE COURT OF THE DISTRICT JUDGE OF BANGALORE

BANGALORE DIVISION

BANGALORE

Original Suit No 45 of 42-43.

Plaintiffs: Trustees of the Bangalore Parsee Zoroastrian Anjuman by

(1) E.K.Palia, son of Kawasji aged about 56 years. Parsee Zoroastrian, Industrial Expert, and Merchant, No.1, Sydney Road, Bangalore.

(2) T.P.Kapadia, son of Pherozeshah aged about 47, years, Parsee Zoroastrian, Dental Surgeon, No.38, Trinity Road, Bangalore.

VS

Defendant: The Government of Mysore, Bangal

Under order VII Rule 1 of the Code of Civil Proceedure, the Plaintiffs above named beg to state as follows:-

1. That the Government of Mysore have sanction the proposal of the Deputy Commissioner, Bangalore District, No. A 3769/41-42 dated 9th September 1942, that property described in the Schedule annexed hereunder has been taken possession completely on 7th September 1942 and sanction of Government be accorded to the formation of a Committee with the Deputy Commissioner, Bangalore District (President) Mr. H.F.Marker (Secretary) Rajasevaprasakta Mr. A. R. Wadia, Mr. R. N. Mirza and Mrs. Kothavala as its members for the management

2. That Government were not entitled to resume

resume possession of the property in questio nor were they entitled in any way to interfe with the possession and management of the sa property by the Trustees of the Bangalore - Parsee Zoroastrian Anjuman and further that the orders and notices purporting to be issu in that behalf are invalid, void and of no legal effect.

3. That by a Deed Poll dated 17th April 1922 the Parsee Zoroastrians of Bangalore formed - themselves into an Association and inter alia - declared themselves to be a Parsi Zoroastiran Anjuman similar to institutions scattered over India and other places acting through their recognised and duly appointed representatives and certain persons named therein were appointed as trustees and the lands and moneys belonging to Parsi Zoroastrian Community of Bangalore including the property in question and maintenance fund was duly transferred to the said persons as trustees, and the said trustees agreed and bound themselves to discharge the duties of - their trust in consonance with the usages and customs and ceremonies of the orthodox faith and to keep the interests as well as the honour of the Anjuman at heart and the trustees inter alia agreed and undertook to keep or cause to be kept the immovable properties together with the erections thereon, the grave-yard, compound walls, wells, etc., in good order and condition.

of Bangalore and its surrounding districts enormously increased with the result that the Parsi Anjuman of Bangalore at a meeting of Parsis specially convened for the purpose resolved by an overwhelming majority to erect a Dokhma of Tower of Silence for the due disposal of the dead bodies of Parsi Zoroastrians in accordance with the tenets, beliefs and - immemorial usages and customs of the Zoroastrian Religion in place and stead of the - burial ground.

5. That in a memorial dated 22-11-1936 submitted to the Dewan it was made clear that the system of the disposal of the dead bodies by exposure in Towers of Silence has been in vogue in Parsi Zoroastrians and their Iranian Progenitors from time immemorial and that it is contrary to the fundamental tenets, and principles of their religion to resort to burial or any other method of disposal of dead bodies.

6. That the memorial further pointed out, as is the fact, that ever since the Parsis settled in India about 1300 years ago, Towers of Silence have been established in all places wherever the Parsis had settled in large numbers and that any other method of disposal of dead bodies is repugnant to the religious tenets and beliefs of Parsis and is calculated to wound their feelings.

7. That necessary permission was granted and a Tower of Silence was accordingly built and -

and constructed and thrown open for the use of Parsi Zoroastrians of Bangalore and the surrounding districts in March 1940. Orthodox Parsi Zoroastrians from all parts of India contributed large sums of money for the erection and maintenance of the said Tower of Silence in order that the same might supplant and supersede the system of burying the dead bodies of Parsis till then followed in Bangalore which was sinful and irreligious according to the fundamental principles of Zoroastrian Religion and immemorial usages and customs of Parsis.

3. That the religious beliefs and immemorial usages and customs of Parsis enjoin and make it imperative that as soon as a Tower of Silence is established in any particular area any burial ground in that area used for burying the dead bodies, should be immediately closed and further use thereof as a burial ground should be prohibited.

9. That having regard to the tenets and beliefs aforesaid, it was always implied and understood that the said Aramgah or burial ground was to be used and could be used for burial of dead Parsis only so long as there was no Tower of Silence available in Bangalore District for the disposal of the dead bodies of Parsis.

10. That the 16½ Guntas of land in respect of which a Committee of management with the Deputy Commissioner as Chairman was appointed has practically outlived ~~cultivated~~ its usefulness for burial- regard being had to its normal total capacity and the

the number of tombs more than 75 in number that have come into existence during the past 47 years, the part of land remaining vacant is negligible. The same should now be maintained as consecrated ground for saying religious prayers and for performing such religious ceremonies for the dead as are customary among Parsis according to the tenets of their religion.

11. That the constitution of the present Committee by Government practically amounts to interference with the rights of the trustees to manage the performance of such religious ceremonies for the dead as are customary among Parsis according to the tenets of their religion.

12. That even as per D.O. No. A3-762/40-41 dated 1st June 1942, by the Deputy Commissioner that is contemplated to be resumed is the vacant and not the tombs more than 75 as aforesaid. It can never be inferred that the right to resume extended to the tombs and right to manage the religious ceremonies to the dead bodies as stated above.

13. That the cause of action arose on 9th September 1942 in Bangalore within the jurisdiction of this Court.

14. That the value of this suit for purposes of court fee is Rs.550/-, ~~xx~~ of which Rs.500/- is the value of the land with graves described

and Rs.50/-, for the costs of closing up the door put up by the Defendant in the compound wall of the Plaintiffs.

15. That Notice required under section 80 of the Code of Civil proceedure has bee duly given by registered post to the Chief Secretary to the Government of Mysore and the Postal acknowledgment is herewith file

Wherefore the Plaintiffs pray for - a decree directing the defendant (1) to re possession of the suit property to plainti (2) to close up the door newly opened in t compound wall encircling the plaintiffs ot properties, and (3) to pay up the costs of this suit together with such other relief this Honourable Court may deem it fit to g

(sd) Belunthy (sd) E K Palea
(sd) D Kapadia
Plaintiffs.

We, the Plaintiffs above named solemnly affirm that what is stated above is true to - the best of our knowledge and belief.

Sd. E K Palea
D Kapadia
Plaintiffs.

S C H E D U L E

The Burial Ground of 16½ Guntas containing about 75 graves in Khayamgutta Ranganathpur - Village, Bangalore Taluk, bounded on the North by Parsee Anjuman Plot, on the South by Parsee Anjuman Plot, on the East by Parsee anjuman Road and on the West by public path.

Submitted

This may perhaps be sent to the Protection Branch for taking necessary further action, the main file being sent if asked for

9/4.
MM

for [illegible]
Land Dept
[illegible]

[illegible]

Appendix F. G.—1]

SUBJECT.....

.....

.....

Section Law

File No. 257-42

Serial No. 2

Diary No. of letter replied to.....

No. F.8577/Cvil

General and Revenue Secretariat

( )

the *194*

To

The Govt Pleader Bangalore

District Bangalore.

Subject:— O.S. no. 45/42-43 on the file of the District Judge Bangalore Division (Trustees of the Bangalore Parsee Zorastrian Anjuman Vs The Government of Mysore)

Sir,

Date of issue. . .....

Signed by.....

I am directed to forward herewith a duplicate of the defendant's/summons in the above case together with a Copy of plaint received from the District Judge Bangalore Division and to request you to appear in the case on behalf of Govt

List of enclosures.....

Codied by.....

Examined by.....

WD 04161—GPB—60,000—24-10-41

on 20th May 1943 to which date the case stands posted for hearing and take a months adjournment to ~~enable them to~~ obtain necessary orders in the matter of the defence of the suit on behalf of them.

Intimation may also be ~~forwarded~~ sent to this office regarding the next date of hearing

Thanking.

Appendix F. G.—1]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *194*

Date of issue.....

Signed by.....

List of enclosures.....

Codied by.....

Examined by.....

Section Law

File No. 257-42

Serial No. 3

No. P 5798/Rev

To

The District Judge

Bangalore ~~[redacted]~~ Division

~~[redacted]~~ Bangalore

Sir

I am directed to return herewith duly served by me for the Chief Secretary to Govt the defendant's summons in original in O.S. no. 45/42-43 on the file of your court and to state that the Govt Pleader Bangalore has been requested to appear on behalf of Govt in the Case on 20th May 1943.

Thanks.

I

for Secy to Govt Law Dept

Appendix F. G.—1]

SUBJECT.....

.....

.....

Section Law

File No. 257-42

Serial No. 4

Diary No. of letter replied to.....

No. P. 8579.

General and Revenue Secretariat

( )

the *194*

To

The Revenue Commissioner

in Mysore Bangalore

Subject:- G.S.no. 45742-43

on the file of the D.J. Bangalore

(Movables of the Parsee Zoroastrian

Anjuman of Mysore &

Sir

I am directed to forward

herewith a copy of plaint in

the above case and to state that

the Govt Pleader Bangalore has

been requested to appear in

the case and take an adjournment

I am to request you

to kindly forward a report

Date of issue.. .....

Signed by.....

List of enclosures.....

Codied by.....

Examined by.....

)4161—GPB—60,000—24-10-41

in the matter together with
the connected records within
a week from this date to
enable this Office to issue
necessary instructions for the
preparation of the written
statement in the case

Thanking

Yours Obediently

VASUDEVA MURTHY, B.A., LL.B.
Advocate & Government Pleader

5, Chickpet
BANGALORE CITY

No. 1473

Date May 21, 1943.

Urgent

Law 257-42-5

Mr. K.M.V.

4 MAY 1943

The Secretary to Government,
Law Department,
Bangalore.

Sir,

O.S.No.45/42-43 on the file of the Dt.Judge, Parsee Zoroastrain Anjuman -Vs- Govt.of Mysore.

With reference to your letter No.P.8597 dated the 19th instant, I have the honour to inform you that the case stands posted to 21-6-1943 for filing the written statement. The enclosed Vakalath may kindly be got signed by the Chief Secretary to Government and returned. I also request you to kindly send the copy of the plaint with the entire records

I have the honour to be
Sir,
Your most obedient servant,

Vasudevamurthy
GOVERNMENT PLEADER.

Encl:1

MMEDIATE'

8879/42 P

No. C.6684/42-43.
Encl.

OFFICE OF THE REVENUE COMMISSIONER
IN MYSORE.

Bangalore, dated 31st May 1943

Law 25-7-42.

FROM

M. Seshadri, Esq., M.A.,

Revenue Commissioner in Mysore,
Bangalore.

SECT. LAW DEPT. 1/6/43 GOVT OF MYSORE

To

C. Narayanaswami Naidu, Esq., B.A., B.L.,
Secretary to Government of His Highness
the Maharaja of Mysore,
Law *Department, Bangalore.*

3. 1/6

Subject:— O.S.45/42-43 on the file of the District Judge, Bangalore, (Trustees of the Parsee Zorostrian Anjuman Vs. Government of Mysore.

With reference to your letter No. P.8579 dated 19th May 1943, on the above subject, I have the honour to forward herewith a copy of letter No. A3.4462/42-43 dated 28-5-1943 received from the Deputy Commissioner, Bangalore District, together with the connected records (R.Dis.769/40-41). The facts of the case are set out in the Office Note filed in the above records. The receipt of the records may kindly be acknowledged and the records returned when done with.

I have the honour to be,
Sir,
Your most obedient servant,

Revenue Commissioner.

No.A.3.4462/42-43

Office of the Deputy Commissioner
Bangalore District
Dated 28th M a y 1 9 4 3.

From

R. P. Mallappa Esq., B.A., LL.B.,
Deputy Commissioner, Bangalore District.

To

M. Seshadri Esq., M.A.,
Revenue Commissioner in Mysore,
B a n g a l o r e.

Sir,

O.S.45/42-43 on the file of the District Judge, Bangalore (Trustees of the Parsee Zoroastrian Anjuman VS Govt., of Mysore,

-oo-

With reference to your Memo No.C.6684/42-4 dated 26th May 1943, I have the honor to return herewith the copy of the plaint received with you Memo alon; with the two files of records noted in the margin. The facts of the case are set forth in detail in the office note contained in this office file No.R. Dis.769/40-41. The receipt of th records may kindly be acknowledged

---

R.Dis.A.3.769/40-41 of this office.
Vernacular file of records obtained from the Taluk Office.

I have the honor to be,
Sir,
Your most obedient servant,

Deputy Commissioner,
Bangalore District.

GENERAL & REVENUE SECRETARIAT,
Old Public Offices,

In. P 8900/Records

Bangalore, 4th June '43.

From

The Secretary
to the Government of His Highness the
Maharaja of Mysore,
Law Department, Bangalore.

To

The Government Pleader,
Bangalore District, Bangalore.

Subject :- O.S.No.45 of 19422-43 on the file of
the District Judge, Bangalore:
(Parsee Anjuman Vs. The Chief Secretary to
Govt.

S i r,

I am directed to forward herewith for your reference the Revenue Commissioner's Office file and certain Secretariat collections noted below :-

L.R.238/38 Serials 1 and 2.
L.R.238/38 " 3.
L.R.238/38 " 4 to 7.
L.R. -do- " 8 and 9.
L.R. -do- " 11 and 12.
L.R.2/1892 " 1 to 30.
L.R.89/21 " 1 and 2.
L.R.713/39 " 4,7. 13 to 8
L.R.-do- " 8 and 9.
L.R.195/40 " 2, 4 to 6,
8,10,13,17 to 28.
L.R.-do- " 16.
L.R.-do- " 11 and 12.
Revenue Commissioner's office file R.Dis.A-3-769 / 40-41.
and connected records.
Law 176/41-. And L.R. 160/42.
Law 177/42 Serial 1.

I am to request that a draft written-statemet may be prepared and sent to Government for approval at an early date. A Vakalat received from you is herewith return duly signed.

I have the honour to be,
S i r,
Your most obedient servant,

For Secretary to Government.
Law Department.

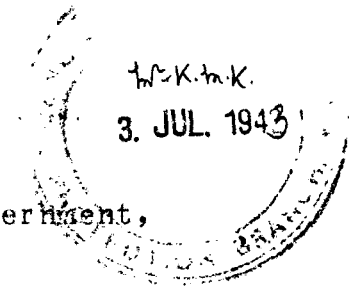
48 & 43

B. VASUDEVA MURTHY, B.A., LL.B.
Advocate & Government Pleader

75, Chickpet
BANGALORE CITY

No. 7

Date July 2, 1943.



The Secretary to Government,
Law Department,
B a n g a l o r e.

Sir,

Re:O.S.45/42-43 on the file of the District Judge, Palia and another -Vs- Govt. of Mysore.

I have the honour to forward you herewith the copy of the memo of particulars filed by the plaintiffs. The case has been posted to the 15th instant for filing the defence. I shall send a draft of the same in a day or two for your approval and return.

I have the honour to be
Sir,
Your most obedient servant,

B Vasudeva murthy

Encl:1 GOVERNMENT PLEADER.

"COPY"

IN THE COURT OF THE DISTRICT JUDGE AT BANGALORE.
O.S.No.45 of 1942-43.

Plaintiff: Mr.E.K.Palia & Another.

.-Vs-

Defendant: Government of Mysore.

1.The Plaintiff beg to furnish the following particulars in response to the defendant's - prayer under order 6 rule 5 C.P.C.

The trustees are:

(1) Mr.E.K.Palia (President)
(2) Dr.T.P.Kapadia (Hon.Secretary)
(3) Mr.R.N.Boyce
(4) Mr.Nusserwanji H.C.Dinshaw
(5) Mr.N.D.Maneckji
(6) Mr.P.Framji
(7) Mrs.D.Cowasji
(8) Mr.A.R.Wadia
(9) Mr.S.M.Talati

2. The Bangalore Parsee Zoroastrian Anjuman is not registered under any Act.

3. The Registered Trust Deed dated 17-4-1922, required in para 3 of the defendant's application is filed herewith.

1.Sd.E.K.Palia
2.T.P.Kapadia.
PLAINTIFFS.

1st July 1943.

B VASUDEVA MURTHY, B.A., LL.B.
dvocate & Government Pleader
75, Chickpet
BANGALORE CITY

No. 418

Date June 17, 1943.

The Secretary to Government,
Law Department,
Bangalore.

Sir,

O.S.45 of 42-43.in the Court of the Dt.Judge, Bangalore.
H.K.Palya & another-Vs-Govt. of Mysore.

I have the honour to send you herewith a memo calling for particulars which I have prepared in this case to file on the 21st instant before filing the written statement. I would request you to obtain the signature of the Chief Secretary to the same and forward it to me in time to enable me to file it.

I have the honour to be
Sir,
Your most obedient servant,

P Vasudeva murthy
GOVERNMENT PLEADER.

Encls:

IN THE COURT OF THE DISTRICT JUDGE, BANGALORE.

O. S. No.45 of 42-43.

E.K.Palia & another -Vs- Govt.of Mysore.

Under order 6 rule 5 C.P.C:—

The Defendant prays that the Plaintiff may be called upon to furnish the following particulars as the same is felt necessary for filing the defence in the case.

1. The Plaintiffs purport to sue as Trustees of the Bangalore Parsee - Zorastrian Anjuman. They may be called upon to state whether they are the only trustees or whether there are other trustees of the - Anjuman and if so their names.

2. Whether the Bangalore - Parsee Zorastrian Anjuman has been registered either under the Societies Registration Act or any other Act.

3. It is stated in para 3 of the plaint that lands and monies belonging to the Zorastrian Community of Bangalore including the property in question were duly transferred to the said persons as trustees." The plaintiffs may state whether there is any document evidencing the same and to produce it to Court.

ADVOCATE FOR DEFENDANT.

Bangalore,
Dated June '43.

DEFENDANT.
(CHIEF SECRETARY TO GOVT.)

IN THE COURT OF THE DISTRICT JUDGE AT BANGALORE.

O.S. No. 45 of 1942-43.

PLAINTIFFS:- Mr. E.A. Malia and another.

-VS-

DEFENDANT:- The Government of Mysore.

Under Order 6 Rule 5, C.P.C.-

The Defendant prays that the Plaintiff may be called upon to furnish the following particulars as the same is felt necessary for filing the defence in the case.

1. The Plaintiffs purport to sue as Trustees of the Bangalore Parsee Zoroastrian Anjuman. They may be called upon to state whether they are the only trustees or whether there are other trustees of the Anjuman and if so their names.

2. Whether the Bangalore Parsee Zoroastrian Anjuman has been registered either under the Societies Registration Act or any other Act.

3. It is stated in para 3 of the plaint that "lands and monies belonging to the Zoroastrian Community of Bangalore including the property in question were duly transferred to the said persons as trustees". The plaintiffs may state whether there is any document evidencing the same and to produce it to Court.

Sd. V. Vedavyasachariya

ADVOCATE FOR DEFENDANT

DEFENDANT
(Chief Secretary to Government).

Bangalore,
Dated, June 1943.

"Copy" Recd
18/6

P. 9150 / Encl 3

18th June 1943.

Law 257-42-7

XXXX

Law Department

The Government Pleader,
Bangalore District, Bangalore.

Sir,

O.S.No.45/42-43 on the file of the
District Judge, Bangalore.

With reference to your letter No. 418, dated the 17th June 1943, on the above subject, I am directed to return herewith duly signed the memo of particulars to be filed in the above case. Two copies of the same are also enclosed.

I have the honor to be,
Sir,
Your most obedient servant,

for Secretary to Government,
Law Department.

Enclosure to letter no P85 79 dated 19-5-43

IN THE COURT OF THE DISTRICT JUDGE OF BANGALORE

BANGALORE DIVISION

BANGALORE.

Original Suit No. 45 of 42-43.

URGENT.

Plaintiffs: VS. Defendant:

...ees of the Bangalore Parsee ... Anjuman by

1. K. Bilia, son of Kawasji aged about 56 years, Parsee Zoroastrian, Industrial Expert, and Merchant, ... Sydney Road, Bangalore.

2. T.P.Kapadia, son of Pheroze Shah aged about 47 years, Parsee Zoroastrian, Dental Surgeon, No. 36 Trinity Road, Bangalore.

The Government of Mysore, Bangalore.

THE REVENUE COMMISSIONER No. 26340 25 MAY 1943 BANGALORE.

***

Under order VII Rule 1 of the Code of Civil Procedure, the Plaintiffs above named beg to state as follows:-

That the Government of Mysore have sanctioned the proposal of the Deputy Commissioner, Bangalore District, No. A. 3769/41-42 dated the 9th Septe 1942, that property described in the Schedule annexed hereunder has been ta possession completely on 7th September 1942 and sanction of Government be accorded to the formation of a Committee with the Deputy Commissioner, Bang District (President) Mr. H.F. Marker (Secretary) Anjasevaprasakta Mr. A.R. Adia Mr. R.E. Mirza and Mrs. Kothavala as its members for the management.

2. That Government were not entitled to resume possession of the prop in question nor were they entitled in any way to interfere with the possessi and management of the said property by the trustees of the Bangalore Parsee Zoroastrian Anjuman and further that the orders and notices purporting to be issued in that behalf are invalid, void and of no legal effect.

3. That by a Deed Poll dated the 17th April 1922 the Parsee Zoroastri of Bangalore formed themselves into an Association and inter alia declared themselves to be a parsi Zoroastrian Anjuman similar to institutions scatter over India and other places acting through their recognised and duly appointe

representatives and certain persons named therein were appointed as trustees and the lands and moneys belonging to Parsi Zoroastrian Community of Bangalore including the property in question and maintenance fund was duly transferred to the said persons as trustees, and the said trustees agreed and bound themselves to discharge the duties of their trust in consonance with the usages and customs and ceremonies of the orthodox faith and to keep the interests as well as the honour of the Anjuman at heart and the trustees inter alia agreed and undertook to keep or cause to be kept the immovable properties together with the erections thereon, the grave-yard, compound walls, wells, etc., in good order and condition.

4. That in recent years the Parsi population of Bangalore and its surrounding districts enormously increased with the result that the Parsi Anjuman of Bangalore at a meeting of Parsis specially convened for the purposes resolved by an overwhelming majority to erect a Dokhma of Tower of Silence for the due disposal of the dead bodies of Parsi Zoroastrians in accordance with the tenets, beliefs and immemorial usages and customs of the Zoroastrian Religion in place and stead of the burial ground.

5. That in a memorial dated the 23rd November 1938 submitted to the Dewan it was made clear that the system of the disposal of the dead bodies by exposure in Towers of Silencehas been in vogue in Parsi Zoroastrians and their Iranian Projenitors from time immemorial and that it is contrary to the fundamental tenets, and principles of their religion to resort to burial or any other method of disposal of dead bodies.

6. That the memorial further pointed out, as is the fact, that ever since the Parsis settled in India about 1300 years ago, Towers of Silence have been established in all places wherever the Parsis had settled in large numbers and that any other method of disposal of dead bodies is repugnant to the religious tenets and beliefs of parsis and is calculated to wound their feelings.

7. That necessary permission was grantd and a Tower of Silence was accordingly built and constructed and thrown open for the use of Parsi Zoroastrians

of Bangalore and the surrounding districts in March 1940. Orthodox Parsi Zoroastrians from all parts of India contributed large sums of money for the erection and maintenance of the said Tower of Silence in order that the same might supplant and supersede the system of burying the dead bodies of Parsis till then followed in Bangalore which was sinful and irreligious according to the fundamental principles of Zoroastrian Religion and immemorial usages and customs of Parsis.

8. That the religions beliefs and immemorial usages and customs Parsis enjoin and make it imperative that as soon as a Tower of Silence is established in any particular area any burial ground in that area used for burying the dead bodies, should be immediately closed and further use thereof as a burial ground should be prohibited.

9. That having regard to the tenets and beliefs aforesaid, it was always implied and understood that the said Aramgah or burial ground was to be used and could be used for burial of dead Parsis only so long as there was no Tower of Silence available in Bangalore District for the disposal of the dead bodies of Parsis.

10. That the 16¼ Guntas of land in respect of which a Committee of management with the Deputy Commissioner as Chairman was appointed has practically outlived its usefulness for burial- regard being had to its normal total capacity and the number of tombs more than 75 in number that have come into existence during the past 47 years, the part of land remaining vacant is negligible. The same should now be maintained as consecrated ground for saying religious prayers and for performing such religious ceremonies for the dead as are customary among Parsis according to the tenets of their religion.

11. That the constitution of the present Committee by Government practically amounts to interference with the rights of the trustees to manage the performance of such religious ceremonies for the dead as are customary among Parsis according to the tenets of their religion.

12. That even as per D.O.No.A.3-769/40-41 dated the 1st June 1942 by the Deputy Commissioner what is contemplated to be resumed is the vacant

land and not the tombs more than 75 as aforesaid. It can never be inferred that the right to resume extended to the tombs and right to manage the religious ceremonies to the dead bodies as stated above.

13. That the cause of action arose on 9th September 1942 in Bangalore within the jurisdiction of this Court.

14. That the value of this suit for purposes of court fee is Rs.550 of which Rs.500 is the value of the land with graves described in the schedule attached herewith and Rs.50 for the costs of closing up the door put up by the Defendant in the compound wall of the Plaintiffs.

15. That Notice required under section 80 of the Code of Civil proceedure has been duly given by registered post to the Chief Secretary to the Government of Mysore, and the Postal acknowledgment is herewith filed.

Therefore the Plaintiffs pray for a decree directing the defendant (1) to restore possession of the suit property to plaintiffs, (2) to close up the door newly opened in the compound wall encircling the plaintiffs other properties, and (3) to pay up the costs of this suit together with such other ralief as this Honourable Court may deem it fit to grant.

SD.
SD.

Plaintiffs.

We, the Plaintiffs above named solemnly affirm that the what is stated above is true to the best of our knowledge and belief.

SD.
Sd.

Plaintiffs.

S C H E D U L E.

The Burial Ground of 16½ Guntas containing about 75 graves in Khayamgutt Ranganathpur Village, Bangalore Taluk, bounded on the North by Parsee Anjuman Plot, on the South by Parsee Anjuman Plot, on the East by Parsee Anjuman Road and on the West by public path.

HSS/3.

"True Copy"

For Secy. Trustboard
Kolar

IN THE COURT OF THE DISTRICT JUDGE, BANGALORE.

O.S.No. 45 of 42-43.

Trustees of the Bangalore Parsee Zorastrian Anjuman by Mr.Palia & Mr.Kapadia — Plaintiffs

-Vs-

The Government of Mysore — Defendant.

Under Order VIII rule I C.P.C. the Defendant begs to state as follows:-

1. The Defendant denies all the allegations in the plaint except those which are expressly admitted herein.

2.This suit is not maintainable for the following among other grounds:-

a) all the trustees of the Anjuman have not joined in filing the suit,

b) the suit is brought by only two persons who have no proprietory or legal interest of any kind in the suit property

c) the Anjuman itself, whom they purport to represent is an indeterminate and unregistered body of persons having no legal entity or status and cannot legally purport to act for the whole of the community or bring a suit like the present one

d) The plaintiffs have no title or locus standi to claim possession or management as of right of the suit property;

e) the suit is one coming under Act 7 of 1923 and is barred under the Mysore Land Revenue Code Sections 39 & 221 (f)

The defendant admits the allegations in para of the plaint having sanctioned the proposal of the Deputy Commissioner of Bangalore with regard to the matter of over possession of the plaint schedule property ~~including the grants therein~~ and the same has been taken over by the Government and a committee ~~of management~~ appointed to look after its management.

4) The defendant denies the allegation in para 2 of the plaint and submits that the Government were wholly within their rights and ~~were~~ it was legally competent and lawful on the part of the Government to resume possession of the suit land and entrust the management of the same to the committee specified in para 1 of the plaint and that the orders and notices referred to therein are wholly valid and of legal effect, as will be seen from the circumstances mentioned hereunder:-

5) The plaint does not give either an intelligble or a correct account of the terms and conditions under which the land described in the plaint schedule was originally granted by the Government for the use of the Pars

inhabitantas as a burial ground or the circumstances which necessitated and culminated in finally taking over possession of the suit land by the Governm nt. The same are set out in paras hereunder:-

6) The property in question which is a burial ground or cemetery, hereinafter called the Aramgah (the abode of rest) consists of 16½ guntas of Revenue land which belongs to the Government.

7) By a Government Order dated 15-12-1896, the management of the Aramgah was entrusted to a committee composed of certain Parsee gentlemen presided over by the Deputy Commissioner, Bangalore. Later on, in or about 1922, it was represented to the Government that the Parsee community would like to manage the Aramgah themselves as they had formed themselves into an Anjuman and that the Deputy Commissioner may be relieved of the Presidentship of the Committee.

8. The Government was pleased to accede to this request by their order No.M.3502-3/G.M.89-21-2 dated 14-2-1922. But they made it specifically clear in

in their order that the same was "subject to the condition that the management will revert to the Govern if the burial ground was not maintained in accordance with the condition of the original grant"-- the conditi being, the use of the ground by the Parsees for burial. In pursuance of this agreement, the land Schedule had to be kept was and kept all along for the use of the Parsee Community being used as a burial ground, ~~for the Parsees~~ and a number of graves Parsees have been buried in the said area.

9) Recently in or about the year 1937, certain members of the Parsee community styling themselves as the members of the "Dokmah Party" Bangalore, of whom the plaintiff ... the leading persons, started a movement to erect a Tower of Silence in Bangalore. When this came to the knowledge of some of the Parsis persons they protested, and sent in their Resolutions passed in their Meeting convened by them to the effect that there was no necessity for a Tower of Silence here. ~~A letter of protest is herewith annexed.~~ In spite of that, members of the Dokmah party applied to the Government praying for permission to erect a Dokmah or a Tower of Silence in Survey No.50 and 51 at the Hebbal village, Bangalore Taluk, which is situated over six miles from the Armagah.

10) On that occasion, several Parsee residents of Bangalore approached the Government authorities and represented that there was no necessity for a Dokmah at Bangalore and that the system of burial should cc

tinue, and that the construction of the Tower of Silence should not interfere with the custom of burial in vogue here for nearly ~~seven~~ half a century. The agitation against the construction of the Dokmah was carried on vigorously by an influential section of the Parsee residents of Bangalore ~~and Mysore~~ hereinafter referred to as the opposition ists. As the President of the Bangalore Anjuman urged that the Tower of Silence would be used also by the Parsees in South India, the opposition ists appear to have invited the opinions of the Anjumans in Mysore, OCty, Madras and Calicut, if they would use the Tower of Silence constructed here to which they repli in the negative and the oppositionists intimated this fact to the then President of the Anjuman.

To allay this stout opposition the prominent members of the Dokmah committee gave the Gove rnment and the oppositionists to understand that the Armagah would be kept open for burial for such of the Parsees who desired to use it as before. Consistently with this understanding and at the request of the opposition ists who desired to make their position secure the Government issued an order dated 6-2-1939 as follows:—

"In continuation of this Office letter No.R 3515/L.R.238-38-7 dated 26-1-1939 sending you a copy of Government order No.R.3245/8/L.R.238-38-5 dated 10-1-1939 permitting the construction of a Tower of Silence in Hebbal Village, I am desired to state that the permission now accorded does not prevent the use of the existing cemetery in future also even after the new Tower is built". This order was commu-

communicated to the Secretary of the Dokmah Party. It was open for either the Secretary or the members of the Dokmah party to have raised their protest against that order but no protest was lodged by either of them and they by their conduct made both the Government and the oppositionists to understand that the construction of the Tower would not prevent the use of the existing arrangement Cemetery Thus, they have by their conduct acquiesced in that order and as such they have acquired. They are bound the plaintiffs are not only bound by it but are clearly estopped from bringing the present suit.

11. On the aforesaid understanding the Tower of Silence was allowed to be built, but after its construction, the plaintiffs and their party members brought in a novel plea that as per the Zorostrian Religion, burial ceases automatically, the moment a Tower of Silence comes into existence. In accordance with this plea the Anjuman of the Anjuman appears to have been captured by the Dokmah party, ordered the closure of the burial ground in spite of their previous assurance and in defiance of the Government order dated 6-2-1939,. This necessitated the Government to pass an ad Interim order on 20-11-1940, in order to maintain the Status Quo. The disposal of the dead under the Dokman system is prevalent amongst the Parsees but it has been represented that it is a custom only and has nothing to do with Religion. It further, the plaintiffs are estopped in raising such contentions after the Tower

~~settlement between them was effected~~ the Government ~~had to~~ enforced the conditions of the 1922 order. This resulted in the passing of the final order dated 28-3-1942 directing that the burial ground should be resumed and taken possession of by the Deputy Commissioner. ~~who accordingly did so.~~ Thereupon, the Municipality Bangalore took effective possession of the Branch in spite of the obstructive tactics adopted by the Plffs. ~~(Thus it is clear from these facts, that the allegations in paras 4 to 10, do not represent the correct facts.)~~

~~14.~~ ~~Meanwhile,~~ The Anjuman represented by the plaintiffs in this suit, having failed ~~in order~~ to obstruct the Deputy Commissioner from executing the Government Order brought a suit in this Court praying for a permanent injunction against the Defendant and the Deputy Commissioner preventing them from taking possession of the property and appointing the committee of management. The said suit was ~~ultimately~~ dismissed as Govt had already taken possession of the Branch. ~~and the Amildar of~~

~~ommissioner took effective possession of the prope~~
~~y breaking open the~~ compound wall on the ~~western s~~
~~s the plaintiffs refused to allow access to him and~~
~~ersisted in offering obstruction.~~ The Pltfs not being s
with the dismissal order, they prepared an appeal R.A.N
to the High Court & thereon. A stay also the appeal was

In order to safeguard and protect the ri
he oppositionists consistent with the policy that
urial ground must be kept open for the use of such

The Resp admits that Govt have received the memorial dated 23/11/38 referred to in the 5th Para of the Plaint. In the like manner the Govt have also received representations from the Officials of the Company controverting many of the statements contained in the memorial of 23/11/38. But the Pltffs say stress on the facts stated in the said memorial of the Pltffs, by virtue of the order dated 6.2.39 referred to in Para 10 above, issued by Govt to the members of the Bobbili Party, of which the Pltffs are the leading members. The Pltffs, or the Secretary, or the President of the Bobbili Party ought to have protested immediately after the order of 6.2.39 referred to above that of was against their religious beliefs to abide by the terms of the aforesaid order, & that a bobbili could not be built by Govt proposed to keep the Brampah open even after the Tower of silence came into existence. It is not disputed that no such protest was made before the Tower was built. Such protests, if any, were filed in, only after the closure of the Brampah & the Tower was built & kept open for use of not only from the Pltffs' Party members but also from persons of other religious beliefs sharing the same beliefs as the Pltffs. In the like manner, many memorials from influential & leading members of the Parsees & Bombay were sent to Govt to keep the

rampth open for use by such of the Parsees a
uld like to have their dead buried therein

~~resp respectfully submits is not~~ be
~~respectfully~~ submits that ~~the Plffs~~
~~estopped from pressing~~, ~~even the pl~~
~~for the closure of the Arampth the said~~
~~allegations, after acquiescing in the~~ in
~~of 2 3 9 & after the~~ ~~been~~

Not only are the Plffs estopped from pu
forth such ~~pleas~~ allegations in this suit at this
stage, but even if the said allegations
are true, they do not give any right
to the Plffs to claim ownership &
possession of the schedule property,
1922 nor such, in terms of the ~~original~~
~~grant~~, has to revert to
Govt.

Moreover the facts alleged in
paras 5 & 9 being purely of a religious
sentimental nature and also
controversial amongst Parsees
themselves, cannot be enquired
into in this case, as the trial of
such matters is barred by Sec 9
of the C. P. Code.

17) Govt in keeping the Branch open have simply imposed the terms of the ~~agreement~~ 1922 order ~~under which the management of the Branch was transferred to the Assembly~~ at the instance of a fairly large section of the Parsees residing in Bangalore who have accustomed themselves to The Branch System of disposal of the dead ~~in vogue there~~ for nearly a century and in doing so, the Govt ~~has~~ has in view the protection of the civil rights of their subjects. The attitude of the Pltffs & those who believe in the Bombay method appears to be strange. Whilst the Parsees of the opposite way of thinking do not come in the way of the Bombay method of disposal of the dead being employed by those who believe in it, the Pltffs party are apparently out to prevent the bulk of persons who according to their own wishes or on account of conscientious objections, wish to be interred in the midst of their own dear & near relations who are already buried there. If the Pltffs, ~~cannot be permitted to~~ are permitted to so force their own views & practices upon others, ~~but will be helpless~~ the civil rights of the opposite party will be violated.

18) The allegations in Paras 10 & 11 of the Plaint are denied. The Branch has yet space enough to be used for many many years to come, and as such it be

Dr Cathcart his usefulness. He began on
Nov 6 1922, & now 28 years, it has been
felt necessary to remove the Parsees also
& they used as a Burial ground, & it is felt
will be Parsees, including the Bishop & Clergy
only members. The best reasons that the
Bishop & Clergy only people including the Priest-
hood for persons, & N.I.P. Corporation
as before, for the decision was as the
Municipal & the interference of any
sort is caused by the Bishop & Clergy
only members or that of any
person & the Parsees in general

IN THE COURT OF THE DISTRICT JUDGE, BANGALORE.

O. S. No. 42 of 1942-43.

Trustees of the Bangalore Parsee Zoroastrian Anjuman by Mr.Bulin and Mr.Kapadia. ... PLAINTIFFS.

-V/-

The Government of Mysore ... DEFENDANT.

Under order VIII rule I, C.P.C., the defendant begs to state as follows:-

1. The defendant denies all the allegations in the plaint except those which are expressly admitted herein.

2. This suit is not maintainable for the following among other grounds :-

(a) All the trustees of the Anjuman have not joined in filing the suit;

(b) the suit is brought by only two persons who have no proprietory or legal interest of any kind in the suit property;

(c) the Anjuman itself, whom they purport to represent is an indeterminate and unregistered body of persons having no legal entity or status and cannot legally purport to sue for the whole of the community or bring a suit like the present one;

(d) the plaintiffs have no title or locus standi to claim possession or management as of right of the suit property;

(e) the suit is not one coming under Act 7 of 1923 and barred under the Mysore Land Revenue

5. The defendant denies the allegations contained in paragraph 2 of the plaint and states that the defendants' rights are wholly within their rights and it was lawfully competent and lawful on the part of the defendants to secure possession of the said land without the consent of the plaintiff to the building situated in area 1 of the plaint and as the defendants are hereinafter referred to [illegible]

3 for back as 1892, at the request of some of the Parsee residents of Bangalore, the land was ...chased by the Government from the previous ...ner who was assigned for the use of the Parsee community under section 30 of the Land Revenue ...de as a burial ground.

4. By a Government Order, dated 15-12-1896, the ...anagement of the Aragah was entrusted to a Committee composed of certain Parsee gentlemen ...ected over by the Deputy Commissioner, Bangalore. ...ter one in or about 1922, it was represented to the Government that the Parsee community would ...ike to manage the Aragah themselves as they ...d formed themselves into an Anjuman for that ...e Deputy Commissioner may be relieved of the ...nagership of the Committee.

5. The Government was pleased to accede to ...is request by their Order No. R. 5502-5/G.C. ...-21-3, dated 14-2-1922. But they made it ...ecifically clear in their order that the grant ...as subject to the condition that the Management ...ill revert to the Government if the burial ground ...as not maintained in accordance with the condi...ion of the original grant"-- the condition ...eing, the use of the ground by the Parsees for ...urial. In pursuance of this agreement, the land ...ounds/was kept and was to be kept all along for the use of the Parsees community as burial ground and a number of graves have ...ppeared up in the main area.

6. Recently in or about the year 1957, certain members of the Parsee Community styling themselves as the members of the "Dokhma Party", Bangalore,

reons, started a movement to erect a Tower
Silence in Bangalore. When this came to
e knowledge of some of the Parsees
ey protested, and sent in their resolution
gainst an open meeting convened by them to
e effect that there was no necessity for a
wer of Silence here. Inspite of that, the
mbers of the "Dokmah Party" applied to the
vernment praying for permission to erect
ect a Dokmah or a Tower of Silence in Surv
e. No and 81 at the above village, and

the then President of the Anjuman. --- To all this stout opposition the prominent members of the Bohra committee gave the Government and the oppositionists to understand that the Armagah could be kept open for burial for such of the persons who desired to use it as before. Consistently with this understanding (not at the request of the oppositionists who desired to make their position secure, the Government issued an order dated 6-2-1939 as follows :- -- " In continuation of this Office letter No. R. 3515/ Mlt. 238-38-7, dated 26-1-1939, sending you a copy of Government Order No. R. 3245/8/Misc. 238--38-6, dated 19-1-1939 permitting the construction of a Tower of Silence in Hebbal Village, I am desired to state that the permission now accorded does not prevent the use of the existing cemetery in future also even after the new Tower is built". This order was communicated to the Secretary of the Bohra Party. It was open for either the Secretary or the members of the Bohra party to have raised their protest against that order but no protest was lodged by either of them and they by their conduct made both the Government and the oppositionists to understand that the "construction of the Tower would not prevent the use of the existing Cemete Thus, the members of the Bohra party to which the Plaintiffs belong have by their conduct acquiesced in that order as such, the plaintiffs are not only bound by it but are clearly estoppe from bringing the present suit.

11. On the aforesaid understanding, the Tower of Silence was allowed to be built. In

heir party members brought in a novel plea
[illegible] by the [illegible]
ences automatically the moment a [illegible]
[illegible] into existence. In accordan
ith this plea, the branch party of the Anj
rdered the closure of the burial ground in
)ite of their previous assurance and in
eference of the Government order dated 6-2-
his necessitated the Government to make an
<u>teran</u> order on 20-11-1940 in order to put

pointing the Committee of Management. The said Act was dismissed as Government had already taken possession of the Temple. The Plaintiffs not being satisfied with this dismissal order, preferred appeal W.P. No. 41 of 1948-49 in the High Court of Kandy, and there also the appeal was dismissed.

9. In order to safeguard and protect the rights of the opposite parties contained with the Act, it is the normal ground that is kept open for the use of such of the persons of the community as are willing or anxious to use the same and who, like the plaintiffs, do not believe that it is right to use their funds, and for the maintenance of the grounds in a proper state, the Government nominated a Committee of Management consisting of Mudaliyar, influential and responsible members of the Arpura Community with the Deputy Commissioner as Chairman on the lines of the Committee that existed for over 25 years, prior to 1948.

10. The defendant states that Government have received the memorial dated 23-11-1938 referred to in the 9th para of the plaint. The Government have also received representations from the opposite parties controverting many of the statements found in the memorial of 23-11-1938. But the plaintiffs cannot lay stress on the facts noted in the said memorial, at this stage, by virtue of the order dated 6-2-1939 also referred to in para 10 above, issued by Government to the members of the Dakmah Party, of which the plaintiffs are the leading members. The plaintiffs, or the Secretary or the Treasurer of the Dakmah Party ought to have protested immediately after the order of 6-2-1939 appeared

referred to above that it was against their religious tenets to abide by the terms of the aforesaid order, and that a Dakhma could not be built by them if Government promise to keep the Tower open even after the Tower of Silence came into existence. No such protest was made before the Tower was built. Such protests for the closure of the Towers are recorded in, only after the Towers had been kept open for use, not only from the Plaintiffs' party members, but also from Parsees outside Bycore Utate, chiefly [illegible] plaintiffs. In the like manner, many reputed from influential and leading members of the Parsi in Bombay were sent to Government to keep the Dakhmah open for use by such of the Parsees who would like to have their dead buried therein. But only two the plaintiffs stepped from putting forth such allegations in this suit as this [illegible] are true, they do not have any right to the plaintiffs to claim ownership, and possession of the schedule premises, in terms of the 1832 Order, due to several

to the Arungah system of disposal of the dead for over half a century, and in doing so, the Government and in view the protection of the civil rights of their subjects. The attitude of the plaintiffs and those who believe in the Dokmah method appears to be strange. While the Parsees of the opposite way of thinking do not come in the way of the Dokmah method of disposal of the dead, being employed by those who believe in it, the plaintiffs' party are apparently out to prevent the burial of persons who according to their own wishes or on account of conscientious objections, wish to be interred in the midst of their own ~~xxxx~~ dear and near relations who are already buried there. If the plaintiffs are permitted to so force their own views and practices upon others, the civic rights of the oppositionists will be violated.

1. The allegations in paras 10 and 11 of the plaint are denied. The Arungah has yet space enough to be used for many more years to come, and as such, it has not "outlived its usefulness". As before, i.e., prior to 1922, and for over 25 years, it has been kept under the management of the Parsees alone for being used as a burial ground, and it is open for all the Parsees, including the Plaintiffs and their party members. The defendant learns that the plaintiffs and their party people, including the Priest are yet performing the religious ceremonies as before, for the dead lying at the Arungah and no interference of any sort is caused to the plaintiffs and their party members on that or any account by the present management.

19. The allegation as to the [illegible] is negligence. The assumption order is in accordance with the terms of the [illegible] which includes the whole plot of ground, including the graves and the compound-wall.

20. The warrants are not attacked in any [illegible] the suit is stated to be dismissed

IN THE COURT OF THE DISTRICT JUDGE, BANGALORE.

O.S. No. 42 of 1942-43.

Trustees of the Bangalore Parsee Zoroastrian Anjuman by Mr.Palia and Mr.Kapadia. } ... PLAINTIFFS.

-V:-

The Government of Mysore ... DEFENDANT.

Under Order VIII rule I, C.P.C., the defendant begs to state as follows:-

1. The defendant denies all the allegations in the plaint except those which are expressly admitted herein.

2. This suit is not maintainable for the following among other grounds :-

(a) all the trustees of the Anjuman have not joined in filing the suit;

(b) the suit is brought by only two persons who have no proprietory or legal interest of any kind in the suit property;

(c) the Anjuman itself, whom they purport to represent is an indeterminate and unregistered body of persons having no legal entity or status and cannot legally purport to sue for the whole of the community or bring a suit like the present one;

(d) the plaintiffs have no title or locus standi to claim possession or management as of right of the suit property;

(e) the suit is not one coming under Act 7 of 1925 and is barred under the Mysore Land Revenue

[illegible] Commissioner of Emplo
ith regard to the matter [illegible] over mention
ion of the patent agreement and which
as been taken over by the government and a
ommittee is appointed to look [illegible]
ent.

The defendant denied the allegation in
ra 2 of the plaint and pointed [illegible]
ut here merely within their rights and it was
ctly competent and lawful on the part of the
overnment to resume possession of the [illegible]
t contract of employment or [illegible]
ntioned position in para 1 of the plaint
by the [illegible] which amounted to the
n merely with a view to avoid effects as will be
en from the circumstances mentioned hereunder.

o far back as 1892, at the request of some of th Parsee residents of Bangalore, the land was acquired by the Government from the previous holder and was assigned for the use of the Parsee Community under section 37 of the Land Revenue Code as a burial ground.

7. By a Government Order, dated 15-12-1896, t management of the Armgah was entrusted to a Committee composed of certain Parsee gentlemen presided over by the Deputy Commissioner, Bangalore. Later on, in or about 1922, it was represented to the Government that the Parsee community would like to manage the Armgah themselves as they had formed themselves into an Anjuman and that the Deputy Commissioner may be relieved of the membership of the Committee.

8. The Government was pleased to accede to this request by their Order No. M. 3502-3/G.M. Bg-21-2, dated 14-2-1922. But they made it specifically clear in their order that the same was subject to the condition that the management will revert to the Government if the burial ground was not maintained in accordance with the condition of the Original grant"-- the condition being, the use of the ground by the Parsees for burial. In pursuance of this Agreement, the land was kept and had to be kept all along for the use of the Parsee community as a burial ground and a number of graves have sprung up in the said area.

9. Recently in or about the year 1937, certain members of the Parsee Community styling themselves as the members of the "Unknown Party", Bangalore, of whom the plaintiffs were the leading persons

of Silence in Bangalore. When this came to the knowledge of some of the [illegible], they protested, and sent their resolutions passed in their meeting convened by them to the effect that there was no necessity for a Tower of Silence here. Inspite of that, the members of the "Dokmah Party" applied to the Government praying for permission to construct erect a Dokmah or a Tower of Silence in Survey No. 50 and 51 at the Hebbal village, Bangalore Taluk, which is situated over six miles from

the then President of the Anjuman. --- To allay this stout opposition the prominent members of the Okhah Committee gave the Government and the oppositionists to understand that the Graveyard could be kept open for burial for such of the Khojas who desired to use it as before. Consistently with this understanding and at the request of the oppositionists who desired to make their position secure, the Government issued an order dated 6-2-1939 as follows :- -- " In continuation of this office letter No. R. 3515/ L.R. 230-38-7, dated 26-1-1939, sending you a copy of Government Order No. R. 3245/8/L.R. 258-38-5, dated 14-1-1939 permitting the construction of a Tower of Silence in Mahal Village, I am desired to state that the permission now accorded does not prevent the use of the existing cemetery in future also even after the new Tower is built". This order was communicated to the Secretary of the Okhah Party. It was open for either the Secretary or the members of the Okhah party to have raised their protest against that order but no protest was lodged by either of them and they by their conduct made both the Government and the oppositionists to understand that the "construction of the Tower would not prevent the use of the existing Cemetery". Thus, the members of the Okhah party to which the Plaintiffs belong have by their conduct acquiesced in that order as such, the plaintiffs are not only bound by it but are clearly estopped from bringing the present suit.

11. On the aforesaid understanding, the

ut after its construction. the plaintiffs
[illegible] ground as a novel right
hat as per the Constrion Relation, build
ences automatically. the moment a Cover Af
idence comes into existence. In accordanc
ith this rule, the common party of the Auth
ested the erection of the burial ground in
ite of their previous assurance
efidence of the Government order dated 6-8-
his necessitated the Government to change
heram order on 20-11-1940 in order to main
he status

appointing the Committee of management. The said suit was dismissed as Government had already taken possession of the Mosque. The Plaintiffs not being satisfied with this unusual order, preferred an appeal vide No. 41 of 1942-43 in the High Court of Lahore, and there also the appeal was dismissed.

14. In order to safeguard and protect the rights of the oppositionists consistent with the policy that the burial ground must be kept open for the use of such of the persons of the community who are willing or anxious to use the same and who, unlike the plaintiffs, do not believe that it is a sin to bury their dead, and for the maintenance of the grounds in a proper state, the Government appointed a Committee of Management comprising of enlightened, influential and respectable members of the Moslem Community with the Deputy Commissioner as Chairman on the lines of the Committee that existed for over 20 years, prior to 1932.

15. The defendant denies that Government have received the memorial dated 23-11-1938 referred to in the 6th para of the plaint. The Government have also received representations from the oppositionists controverting many of the statements found in the memorial of 23-11-1938. But the plaintiffs cannot lay stress on the facts noted in the said memorial, at this stage, by virtue of the order, dated 6-3-1939 and referred to in para 10 above, issued by Government to the members of the Ahrar Party, of which the plaintiffs are the leading members. The plaintiffs, or the Secretary or the President of the Ahrar Party ought to have protested immediately after the order of 6-3-1939 referred

referred to above that as one against their religious tenets to abide by the terms of the aforesaid order, and that a church could not be built by them if Government proposed to keep the Arrangh open even after the Tower of Silence came into existence. No such protest was made before the Tower was built. Such protests for the closure of the Arrangh flowed in, only after the Tower was kept open for use not only from the Parsi party members, but also from persons outside Parsi circles, thereby the same policy as the plaintiffs. In the same manner, many memorials from influential non-Parsi members of the Parsi in society were sent to Government to keep the Arrangh open for use by such of the Parsees who would like to have their dead buried therein. Not only were the plaintiffs estopped from putti forth such allegations as were made as such but even if the said allegations were made they do not have any right to the plaintiffs to clai ownership, and possession of the suit land, as terms of the 1928 Order, had to never

to the Aramgah system of disposal of the dead for over half a century, and in doing so, the Government had in view the protection of the civil rights of their subjects. The attitude of the plaintiffs and those who believe in the Lokmah method appears to be strange. While the Parsees of the opposite way of thinking do not come in the way of the Lokmah method of disposal of the dead, being employed by those who believe in it, the plaintiffs' party are apparently out to prevent the burial of persons who, according to their own wishes or on account of conscientious objections, wish to be interred in the midst of their own dear and near relations who are already buried there. If the plaintiffs are permitted to so force their own views and practises upon others, the civic rights of the opposite party will be violated.

14. The allegations in paras 10 and 11 of the plaint are denied. The Aramgah has yet space enough to be used for many more years to come, and as such, it was not "outlived its usefulness". As before, it was prior to 1942 and for over 25 years, it has been kept under the management of the Parsees alone for being used as a burial ground, and it is open for all the Parsees, including the plaintiffs and their party members. The defendant learns that the plaintiffs and their party people, including the Priest are yet performing the religious ceremonies as before, for the dead lying at the Aramgah and no interference of any sort is caused to the plaintiffs and their party members on that or any account by the present management.

19. The

The allegation in paragraph 12 of the plaint is inaccurate. The resumption order is in accordance with the terms of the 1922 Order which includes the whole plot of ground, including the graves and the compound-wall.

The plaintiffs are not entitled to any relief and the suit is liable to be dismissed with costs.

Law-257-42-8

GEN. & REV. SECRETARIAT,

No. P.293.W3 Bangalore, 14th July 1943.

From

The Secretary to the Government of His Highness the Maharaja of Mysore.

To

Law Deptt.

The Government Pleader,
Bangalore District.

Sir,

O.S. No. 46 of 42-43 on the file of the District Judge, Bangalore.

I am directed to return herewith duly approved and signed the written statement to be filed on behalf of the defendant in the above case. Two copies of the same are also enclosed.

The records received from you are herewith returned.

I have the honor to be,
Sir,
Your most obedient servant,

for SECRETARY TO GOVERNMENT,
Law Department.

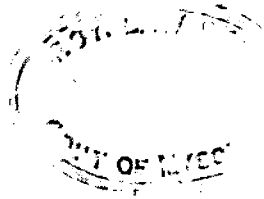
507/43

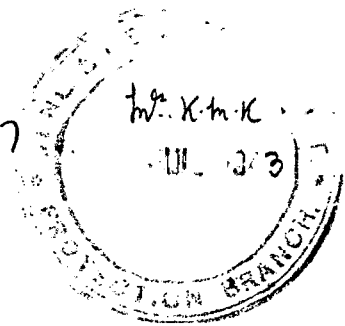
B. VASUDEVA MURTHY, B.A., LL.B.
Advocate & Government Pleader

75, Chickpet
BANGALORE CITY

No. 47

Date 16-7-1943





Secretary to Government
Law Department
Bangalore

Dear Sir,

Re:O.S.45/42-43 on the file of of the Dt.Judge, Bangalore. (Palia and another v. Chief Secretary to govt of Mysore)

I have the honour to inform you that the written statement in the above case was filed yesterday, and the case has been posted to 27th inst for reply by the plaintiff

I have the honour to be
Sir,
Your most obedient Servant,

Government Pleader
Bangalore.

Secretary to Government
Law Department
Bangalore.

Re:W.P.No/82-84 on the file
of the Hon'ble Judge, Bangalore.
(Peiti and another v. Chief
Secretary to Govt of Mysore)

Sir,

I am directed to refer to the above case
which filed yesterday, and the case has been
posted to 6th instant for reply by the Petitioner's
that the written statement in the above case

B. VASUDEVAMURTHY, B.A., LL.B.,
ADVOCATE & GOVERNMENT PLEADER
75, CHICKPET
BANGALORE CITY

792/43

Date July 28, 1943.

Law 257-42-9

The Secretary to Government,
Law Department,
Bangalore.

Sir,

Re:O.S.No.45/ 42-43 on the file of the Dt.Judge,Bangalore.Palia -Vs- Ch.Secretary to Govt.

I have the honour to forward you herewith a copy of the application filed by the plaintiff for discovery and inspection of some documents which have been referred to in the written statement. The case has been posted to the 4th proximo for producing these documents in court. I shall file an objection statement on that date and in the meanwhile, kindly let me know the views of the Government in the matter.

I have the honour to be

Sir,

Your most obedient servant,

B Vasudevamurthy

GOVERNMENT PLEADER.

In the Court of the Dt.Judge,
Bangalore.

O.S.NO. 45 of 1942- 1943.

Trustees of the Bangalore
Parsee Zorostrain Anjuman Plaintiffs
by Mr.Palia & Mr.Kapadia

-Vs-

The Government of Mysore Defendant.

Under order 11 Rule 12,14 & 15 & 151 C.P.C. the plaintiffs beg to state asfollows:-

1.That in order to enable the plaintiffs to file a reply to the statement of the defendants under Order VIII Rule I C.P.C. discovery and inspection of the following documents are necessary.

a) Government Order dated 15-12-1896 referred to in para 7 of the written statement entrusting the management of the Aramgah to a Committee under the Presidentship of the Deputy Commissioner.

b) Government order No.M.3502-3/G.M.89-21-2 dated 14-2-1922 referred to in para 8 of the written statement of the Defendant relieving the Deputy Commissioner of the Presidentship of the Committee.

c) Application by the "Dokhma Party" in 1937 referred to in para 9 of the written statement of the Defendant.

d) Order dated 6-2-1939 referred to in para 10 of the written statement of the defendant.

e) Letter No.R-3515/L.R. 238-38-7 dated 26-1-1939.
f) Order No.R.3245/8/L.R.238-38-5 dated 10-1-1939 (E.&.F) referred to in para 10 of the written statement.

g) Order dated 20-11-1940 referred to in para of the written statement of the defendant.

h) Written representations controventing many the statement-s proved in the memorial of 23-1 referred to in para 15 of the written statemer

i) order in the year 1892 assigning the land-r to in para 6 of the statement.

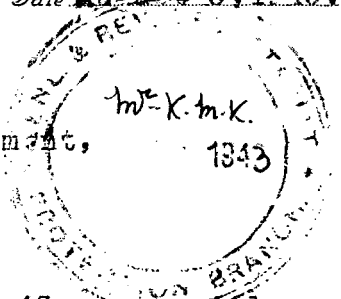
Wherefore the plaintiffs pray that the defe be directed to produce the aforesaid documents enable the plaintiffs to file their reply in t case.

B. VASUDEVAMURTHY, B.A., LL.B.,
ADVOCATE & GOVERNMENT PLEADER

75, CHICKPET
BANGALORE CITY

No. 97

Date August 3, 1943.



The Secretary to Government,
Law Department,
Bangalore.

Sir,

Re:O.S.No.45/42-43 on the file of the Dt.Judge, Bangalore.(Palia -Vs- Goverment of M y s o r e.

In continuation of my letter No. 761 dated 28-7-43 I have the honour to forward herewith the entire file relating to the above case. The Government may be pleased to send me such letters or orders as they deem fit to produce at this stage, in response to the plaintiff's application for discovery and inspection of certain document, a copy of which application I have already sent with my previous letter. I think you may now produce at this stage copies of the following items in the plaintiff's application.

Item No.A copy of G.O. dated 15-12-1896
-do-B " -do- " 14- 2-1922
-do-C " Application by the Dokmha party in 1937.
Item No.D copy of order dated 6-2-39 referred to in para 10 of statment.
Item No.G. order dated 20-11-1940 and
Item No.I. order in 1892 assigning the land.

The case is posted to-morrow and I shall take a short adjournment.

I have the honour to be,
Sir,
Your most obedient servant,

B Vasudevamurthy

GOVERNMENT PLEADER.

SUBJECT.....

.....

.....

Section

File No.

Serial No.

Diary No. of letter replied to.....

No. P·1088/records.

To

The Govt Reader

Bangalore District

Bangalore.

Subject:- L.S.no. 64 5/42.43 on the file of the District Judge, Bangalore (E.K.Palia & Kapadia vs Govt of Mysore.

Sir,

With reference to your letter no. 97 dated 31st August 1943 on the above subject, I am directed to forward herewith for necessary further action copies of the marginally noted documents.

The records received from you are all herewith returned.

General and Revenue Secretariat

( )

the *194*

Date or issue... 16·8·43

Signed by... Mr M.K.V.

(1) Copy of Bangle DC's letter dated 22.10.42 addressed to the Dist Secy to Govt

(2) Acquisition statement dated 24-10-42

(3) ~~[illegible]~~

(4) ~~[illegible]~~ dated 8th October 1895

(5) Copy of G.O.no. 5485-87/R7. 91-96 dated 15/16 December 1896

(6) Copy of G.O.no.M.3502-3/G.M. 89-21-2 dated 16-2-1922

List of enclosures.....

(7) Memorial dated 23-11-1938.

Copied by.....

(8) Copy of D.O.no. R.3515/L.R.238-38-7 dated 26-1-1939 from the Asst Secy to Govt Law Dept to Mr P.J. Unwalla, Hon Secy.

Examined by.....

(9) Copy of letter no R.4657/L.R.238-38-12 dated 25.3.1939 from the Dist Secy to DC. Bangle.

(10) Copy of D.O.no. R.3733 dated 6-2-1939 to P.J. Unwalla Hon Secy.

(11) ~~Copy of DC's order dated 19.11.1940~~

WD 04161—GPB—60,000—24-10-41

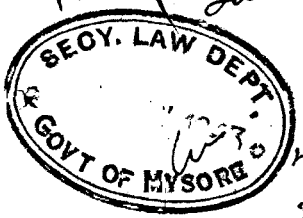
(a) 8859

B. VASUDEVA MURTHY, B.A., LL.B.
Advocate & Government Pleader

75, Chickpet
BANGALORE CITY

No. 1124 Jan

Date May 29, 1943.



Immediate

The Secretary to Government,
Law Department,
Bangalore.

Sir,

Re:O.S.No.45/42-43 on the file of the District Court, Bangalore.
Palija -Vs- Government of Mysore.

I have the honour to request you kindly to send me all the avilable files relating to the above case to enable me to draft the written statement.

I have the honour to be

Sir,

Your most obedient servant,

B Vasudevamurthy

GOVERNMENT PLEADER.

1589/43

B. VASUDEVAMURTHY, B.A., LL.B.,
ADVOCATE & GOVERNMENT PLEADER

75, CHICKPET
BANGALORE CITY

No. 161

Date Aug. 25, 1943.

The Secretary to Government,
Law Department,
Bangalore.

Sir,

O.S.45 of 42-43 on the file of the Dt.Judge, Bangalore.
Palia -Vs- Government of Mysc

I have the honour to inform you thaf the above case is posted to 15th September 1943 for reply by the plaintiffs. A copy of the objection statement filed by me in answer to the application of the plaintiffs for discovery and inspection of ~~the~~ certai documents is enclosed herewith for your kind peference.

I have the honour to be
Sir,
Your most obedient servant,
B. Vasudevamurthy
GOVERNMENT PLEADER.

The Secretary to Government,
Law Department
Bangalore.

I have the honour to inform
you that the above case is posted to
16th September 1944 for reply by the
plaintiffs. A copy of the objection
statement filed by me in one or the
applications of the plaintiffs for
amendment is enclosed herewith for
your information or the certain
documents is enclosed herewith for

IN THE COURT OF THE DISTRICT JU

BANGALORE.

O.S.No. 45 of 1942-43.

Trustees of the Bangalore Parsee Zoroastrain Anjuman by Mr.Palia & Mr.Khopadi. — Plaintiffs

-Vs-

The Government of Mysore. — Defendant

In answer to the plaintiff's application Sl.No. for inspection and discovery the defendant begs to state as follows:-

The application is not maintainable and the plaintiffs are not entitled for inspection and discovery at this stage.

The application is in the nature of a fishing enquiry and the plaintiffs are apparently trying to collect material for meeting the defendant's written statement. The documents referred to in the application are matters purely and exclusively of evidence on the side of the defendant and the plaintiff cannot call for them at this stage. The Government submits that A, B, E, F, G are public documents and the plaintiffs are bound to apply for and obtain copies of the same from Government. The other documents, Items C & D the plaintiffs should have copies since they are their letters and the plaintiffs must also be in possession of items E & G as they have been served on them. Moreover the plainti

plaintiffs are fully aware of all the documents referred to in their application and are bound state in their reply what they have to say about the pleas raised by the defendant before calling upon the defendant to produce any documents or inspection thereof. The plaintiffs cannot be allowed to shape their reply after perusing the ments on which the defendant relies for his cri The defendant has however without prejudice to above stated objection delivered to the plainti copies of the documents called for by the plain being items A,B,C,D,E,F,G,&I in the plaintiffs' application. The defendant cannot produce at stage the letters referred in item no.'H' sever which are confidential communications and are m over purely matters for evidence to be put in at the stage of trial, if necessary using letters from third parties.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P·3047 Rev 25y

Dated, Bangalore .....3:11:43.....

Law · 257-42-1

FROM

The Secretary to the Government of His Highness the Maharaja of Mysore.

To

Law Department.

The Government Pleader,
Bangalore District, Bangalore.

Sir,

Subject No. O.S. No.45 of 42-43 on the file of District Judge, Bangalore.

I am directed to forward herewith duly approved and signed the rejoinder to be filed on behalf of the Defendant in the above case. Two copies of the rejoinder and the file of papers received from you are also herewith returned

I have the honour to be,
Sir,
Your most obedient servant,

Secretary to Government,
Law Department.

IN THE COURT OF THE DISTRICT JUDGE, BANGALORE.

O.S. 45 of 42-43.

Trustees of the Bangalore Parsee
Anjuman by Messrs. Palia and Kabadia - Plaintiffs.

Vs.

Government of Mysore - Defendant.

The defendant begs to file the following rejoinder to the Plaintiffs reply.

1) The reply is merely argumentative and mainly repeats the allegations in the plaint. The allegations therein have already been met in the written statement of this defendant. It is only in matters connected with the maintainability of the suit that the defendant feels called upon to file the rejoinder.

2) The defendant submits:

a) that the Resolutions dated 20th June 1942 and 5th July 1942 cannot in law authorize the Plaintiffs to file the present suit, for and on behalf of all the trustees nor on behalf of the whole Anjuman;

b) that the meetings alleged to have been held to pass the said resolutions, were not duly

convened, and as such were not fully representative of the whole Parsee Anjuman of Bangalore;

c) that all the Trustees were not duly notified of the said meetings, nor were they consulted, nor their consent obtained for the said Resolutions;

d) that out of nine, only three trustees, two of whom are the plaintiffs appear to have been present at the meeting of the trustees when the Resolution of 20th June 1943 is alleged

the Anjuman or its nominees cannot legally institute such a suit.

4) The allegations contained in para 9 B of the reply, in no way binds this defendant nor do they take away the rights of the Government to act in the manner they have done with regard to the land which they had granted for the specific purpose of using it as a burial ground as explained in the written statement.

5) The reference to the religious usages and customs and ceremonials and any plea based thereon contained in the reply are tenable and have already been met in the written statement of this defendant and in any case are not matters which the Civil Court can consider nor can they form the subject matter of trial in this suit.

6) The defendant denies the allegations in the plaint and reply except those expressly admitted herein and in the written statement.

VERIFICATION.

I the defendant, abovenamed affirm that the foregoing is true to the best of my knowledge and enquiry.

IN THE COURT OF THE DISTRICT JUDGE, BANGALORE.

O.S.45 of 42 - 43.

Trustees of the Bangalore Parsee
Anjuman by Messrs. Palia & Kavadia Plaintiffs

-Vs-

at the meeting of the trustees when the ~~alleged~~ alleged Resolution of 20-6-1943 ~~purported~~ to have been passed, and only 3 trustees of whom two were the plaintiffs and only about 30 members ~~of the Anjum~~ were present at the meeting of the Anjuman held on 5-7-42.

3) The Anjuman is an unregistered and ~~inquite~~ body without any legal entity or existence, ~~nor~~ ~~the~~ trustees appointed by it ~~could not~~ pass ~~such~~ a Resolution ~~to bind itself much less outsiders, nor~~ ~~can the Anjuman or its nominees to bring the pres~~ ~~suit.~~ ~~Can a body be Anjuman~~ ~~Anjuman~~ ~~cannot~~ legally institute such a suit.

4) The allegations contained in para 9 B of t reply, in no way binds this defendant ~~to~~ take away the rights of the Government to act in the manner they have done with regard to the land which they had granted for a burial ground as explained in the written statement. There is no provision in the trust deed, that the defendant would be bound by it or anticipating the opening of a

[illegible] —

a/ that the Resolutions dated 20 6/42 & 5 7/42 cannot in law authorize the Pltffs to file their present suit, for & on behalf of all the Insurers on behalf of the whole Syndicate;

b/ that the Meetings held to pass the said Resolutions, were not duly convened, & as such, are not fully representative of the whole Syndicate & the Defendants & Syndicate

c/ that all the Insurers ~~of the Syndicate~~ were not duly participating in the said meetings, nor were they consulted, nor their consent obtained to the said Resolutions;

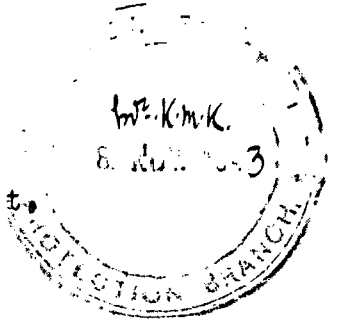
d/ that of the nine Insurers only seven, & whom 2 are the Pltffs above, were present at the meeting of the Insurers

[To be used only for notes, requisitions, etc., not intended for permanent record.]

1589 S 3389 P 43

75, CHICKPET
BANGALORE CITY

Date Nov.5, 1943.



Secretary to Government,
Law Department,
Bangalore.

Sir,

Re.O.S.45/42-43 on the file of the Dt.Judge, Bangalore. Parsee Anjuman -Vs-Govt. of Mysore.

I have the honour to inform you that the above case is posted to the 11th instant for filing draft issues.

8/11

Submitted for perusal. I have the honour to be

Sir,

Your most obedient servant,

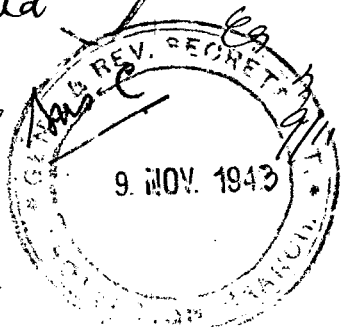
P.V. Vasudeva Murthy

GOVERNMENT PLEADER.

The receipt of a further report from the Govt. Pleader may be awaited.

9/11

9.11.43



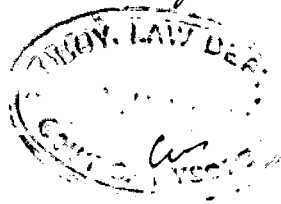
[illegible]

5739 8/44

MURTHY, B.A., LL.B.
ate & Government Pleader
~~75, Chickpet,~~ BANGALORE CITY

No. 471

Date 5th Jan. 1944.



To

The Secretary to Government,
Law Department, Old Public Offices,
Bangalore.

Sir,

Re.O.S.No.45/42-43, Bangalore Parsi Anjuman . Vs. Govt.of Mysore.

I have the honour to inform you that the above case has been adjourned to 14-2-44 for trial. I sent herewith a copy of the issues. The court has granted 15 days time from 4-1-44 for filing the documents and the witness list. Please send the names and addresses of witnesses who are to be examined for Government.

I have the honour to be,
Sir,
Your most obedient servant,

B Vasudevamurthy

Government Pleader.

IN THE COURT OF THE DISTRICT JUDGE.

B A N G A L O R E.

O.S. No.42 of 1942-43.

Trustees of the Bangalore Zoroastrian Anjuman -- by Mr.Palia and Dr. Kapadia. PLAINTIFFS.

Vs.

The Government of Mysore. DEFENDANT.

The Plaintiffs reply to the Defendant's statement under Order VIII. Rule 1 C.P.C.

1. The Plaintiffs deny all the allegations in the wri statement exeept those which are expressly admitted herei and in the plaint.

2. The averments in paras 2 (a) to (e) i.e. to the effect that this suit is not maintainable are neither correct nor tenable for the following reasons:

(a) All the Trustees of the Anjuman need not join in filing this suit, particularly so, on account of the fact that the plaintiffs who have signed and verified the plaint have been delegated by virtue of resolutions of the Anjuman and body of trustees to commence and conduct all proceedings judicial and otherwise in the latter's name having any reference to the schedule property. This fact was urged specifically in para 13 of the plaint in O.S.49 of 41-42 on the file of this Court to which the defendant was a party.

Further the plaintiffs in the said suit produced the required resolutions of the trustees and of the Anjuman enabling and approving the filing of this suit on behalf of the former.

(b) The Anjuman was formed in or about 1921 with the object of ministering to the general well-being of the Parsee Community as a body for which purpose a Board of Trustees was appointed to hold the property and fund whatsoever of Anjuman with powers to manage the same and administer the affairs of the Anjuman with fidelity and zeal. It falls to the plaintiffs to watch and protect the interests of the Anjuman and preserve its property and fund in their keeping.

(c) Further Government Order No.3502-4/G.M.89-21-2 dated 14th February 1922 directed the transfer of the property in question to the said Zoroastrain Anjuman recognising it as such and in as much the said property has been illegally taken by back by the Defendant, the plaintiffs who represent the successors in title of the said Zoroastrian Anjuman are fully entitled to sue.

(d) Again Notification No.A3-769-40-41 dated 22nd November 1942 expressly says resumption of the property in question from The Parsee Zoroastrian Anjuman whose successors in title are now represented by the plaintif for reasons stated in paras 2, (a) and (b) Supra:

3. Under the aforesaid circumstances the defendant is estopped from contending that the plaintiffs are not entitled to file this suit.

4. This suit is for recovery of the property as against the defendant and is expressly provided for, under Act 7 of 1923 and it is not opposed to the provisions 361, 39 and 221 (b) of the Land Revenue Code in view of the circumstances referred to in the plaint and this reply.

5. The defence filed in the case is argumentative and does not confine itself to pleadings.

6. The land in question was acquired for a small sum of Rs.41-4-0 and Mrs.Kama of Bombay at her own cost effected improvements and further offered to Rs.1,600 fo maintenance of the property.

7. The said property was, at the request of the said Mrs. Kama handed ove to a board of management consisting certain parsee gentle as members and the Deputy Commissioner for the time being as president.

8. The Deputy Commissioner Bangalore District as per his letter No.P.513/21-22 dated the 2nd December 192 expressly stated that the Parsee Community desire to form a Zoroastrian Anjuman etc. and the management of the property may be made over to the said Anjuman, and the Deputy Commissioner be relieved of the office of the President.

9-a. Accordingly the property was handed over to the said Zoroastrian Anjuman.

9-b. The Anjuman received the schedule property from the board of management referred to in paragraph 7 charge to carry out their duties "in consonance with the religic usages, customs and ceremonials of the orthodox faith by virtue of a Registered Trust Deed of 1922 draft where had been submitted for inspection of the Defendant prior to and for obtaining the transfer.

9-c. The schedule property has since come to be surrounded by other items of valuable property costing several thousands required by the Anjuman, through Gift and purchase frok private parties so that what is designa as Parsee Cemetery comprises now of 100 Guntas of land in a compact block with several super structures and other conveniences provided with the aid of funds derived by th

by the Anjuman from donation.

10. The alleged condition referred to in paragraph 8 of the written statement that the land will revert to Government is wrongly construed by the defendant.

11. The whole property vested in the Zoroastrian Anjuman and it is not open to the defendant to interfere with its rights of management of the property in accordance with the principles of the parsee Zoroastrian religion.

12. The alleged omission by the Dokhma party to protect etc. referred to in paragraph 10 of the written statement even if true, cannot and does not prevent the Anjuman from acting according to the principles of their orthodox faith.

13. According to the orthodox faith, every Zoroastrian is strictly and exculsively enjoined to adopt device known as Tower of Silence in regard to the disposal of the dead. Burial as well as cremation are abhorred as most henious and inexpiable sins; and dire necessity is its sole and only excuse. So hallowed and u is this tenet that burial if prevalent in a locality - caases automatically upon a Towerof Silence coming into existence in the vicinity. It has happened so in many places including several enlightened centres, and no Government or Administration has even yet failed or hesitated to recognise or come to rescue of this ancient and orthodox tenet. Instances are many, where in the face of burial as the only prospect at hand, the dead an dying have been transported, regardless of the cost, trouble and distance involved to find a resting place in the Tower of Silence. It is an institution peculiar to the Parsees and an active belief in it is esenti to entitle one to call himself a true Zoroastrian.

14. As the Tower of Silence is very expensive, they go without one and resort to burial, if, at first they happen to be few and ill provided. With the increase of their number and resources, they go in for a Tower of Silence and eschew burial forced on them by necessity and the forms of civilised government. This was a cycle of events that repeated itself in Bangalore as well. Due to this deep rooted tenet, the Anjuman set about to find the where with all to supply a keenly felt want and erected a Tower of Silence at enormous cost of over a lakh of Rupees near Hebbal in Bangalore which was consecrated and thrown open in 1940. The immediate and unashamed effect of its appearance was to oust and stamp out burial hereabouts amongst the Parsees. Accordingly the Anjuman at its meeting held in July 1940 resolved that as the approved mode of disposal of the dead had been accessible, it had no alternative left but to ban the continuance of the burial in the schedule property in the possession and management of the plaintiffs. As already observed in the plaint it has practically outlived its usefulness for burial, regard being had to its normal total capacity and the number of tombs in existence there already, though in other respects it continued to function as a burial ground and was maintained as such till plaintiffs were dispossessed by the Defendant.

15. The resolution above mentioned was moved and passed by an overwhelming majority. The few dissenters who could well have employed its byelaws to overthrow the same did not do so but provided themselves with a burial ground in Challaghatta village in Bangalore Taluk and embarked on a campaign to humble the orthodox parsees who compose almost the entire Zoroastrian community. In that process, these dissenters demanded the continuance of the burial in the schedule property and the defendant interfered and took wrongful possession of the 16½ Guntas with the several tombs and superstructures referred to above and have interfered with the vested rights of the Anjuman with regard to observance of ceremonies etc. - necessary for the proper management of the burial ground.

16. The defendant professed to rely upon what is ferred to already as condition of the grant. The fendant failed to see, that the grant was absolute d even otherwise nothing has occurred to occasion y forfeiture of the entire property. Further more en the defendant made the grant and the board subquently vested the property in the Anjuman who were ofessed adherents of the orthodox faith and whose ccessors the plaintiffs are, it was an implicit ndition that the same was to be used for burial so ng only as no Tower of Silence was constructed.

17-a. Under the Trust Deed of 1922, the draft of ich was as aforesaid scrutinised by the defendant, e Trustees are bound to discharge the duties of their ust in consonance with the usages, religion and customs and ceremonies of the orthodox faith and to prevent the desecration of the existing tombs and secure the performance of periodical rites and ceremonies in an orthodox setting.

17.b. It is equally incumbent on them to prevent the continuance of burial in the schedule property in as much as Tower of Silence has come into existence in the neighbourhood.

18. In the light of the foregoing facts, the plaintiffs are entitled to get back the schedule property and continue in the management of it. The action of wresting possession of the schedule property

and setting a new management committee is high handed untenable and unwarranted altogether.

19. In view of the aforesaid facts, it is not correct or tenable to assert as in para 10 of the written statement that the Anjuman acquiesed fully in the Order No.R.3245/8/L.R. 238-38-5 dated 11-1-1939 nor is it correct to assert that the said order could legally affect the rights of the plaintiffs in respect of the schedule property.

20. It is not the Dokhma party as averred in para 11 of the written statement that ordered the closure of the burial ground. In fact it is the Anjuman and Anjuman only that has its rights in respect of the schedule property and has exercised the said rights as stated already.

21. The allegations in para 13 of the written statement are true but the said fact is no bar to the present suit.

22. The oppositionists referred to in para 14 of the written statement could have been left to themselves to establish their rights, if any, in a Court of Law against the Anjuman and the policy of the defendant instead of remaining neutral has erred in espousing the alleged grievance of the said oppositionists.

23. The contention urged in para 16 of the written statement is again untenable and the trial of the suit is not at all barred under Sec.9 of the Code of Civil Procedure Code, taking into consideration, the pleadings of the plaintiff.

24. There is much repetition in the pleadings of the defendant.

25. The defendant is unable to say definitely as to how much space out of 16½ guntas is open and fit to be used as burial ground.

26. The defendant does not say what law he could

direct the forcible breaking open the compound wall belonging to the plaintiffs and take possession of the tombs and other structures. Under the circumstances of the case the defendant is liable for the damages claimed in para 14 of the plaint. In any view of the case the plaintiffs are entitled fully to the relief claimed in the plaint.

Therefore the plaintiffs pray for a decree in terms urged in the plaint.

Belur Srinivasa Iyengar)
Advocate for Plaintiffs.)

E.K.Palia

T.P.Kapadia

Plaintiffs.

We the plaintiffs solemnly affirm that what is stated above is true to the best of our knowledge and belief.

E.K.Palia

T.P.Kapadia

Olaintiffs.

Bangalore

Dated

IN THE COURT OF THE DISTRICT JUDGE, BANGALORE.

O.S. 45 of 42 - 43.

Trustees of the Bangalore Parsee
Anjuman by Messrs. Palia and Kapadia - Plaintiffs.

VS.

Government of Mysore - Defendent.

The defendant begs to file the following rejoinder to the Plaintiffs reply.

1) The reply is merely argumentative and mainly repeats the allegations in the plaint. The allegations therein have already been met in the written statement of this defendant. It is only in matters connected with the maintainability of the suit that the defendant feels called upon to file the rejoinder.

2) The defendant submits:

a) that the Resolutions dated 20th June 1942 and 5th July 1942 cannot in law authorize the Plaintiffs to file the present suit, for and on behalf of all the trustees nor on behalf of the whole Anjuman;

b) that the meetings alleged to have been held to pass the said resolutions, were not duly convened, and as such, were not fully representative of the whole Parsee Anjuman of Bangalore;

c) that all the Trustees were not duly notified of the sai d meetings, nor were they consulted, nor their consent obtained for the said Resolutions;

d) that out of nine, only three trustees, two of whom are the plaintiffs appear to have been present at the meeting of the trustees when the Resolution of 20th June 1943 is alleged to have been passed, and only 3 trustees of whom two were the plaintiffs and out of 96 members of the Anjuman only about 30 members were present at the meeting of the Anjuman held on 5th July 1942.

e) that the Resolutions are therefore Ultravires and

passed at a meeting not properly conducted or notified for the purpose. Hence plaintiffs are not legally entitled to bring the present suit.

3) The Defendant once again submits that the Anjuman is an unregistered and inchoate body without any legal entity or existance, and as such the trustees appointed by it cannot in law pass a Resolution empowering the Plaintiffs to file the suit. Further such a Resolution even if passed is not binding on the Anjuman. Hence the Anjuman or its nominees cannot legally institute such a suit.

4) The allegations contained in para 9 B of the reply, in no way binds this defendant nor do they take away the rights of the Government to act in the manner they have done with regard to the land which they had granted for the specific purpose of using it as a burial ground as explained in the written statement.

5) The reference to the religious usages and customs and ceremonials and any plea based thereon contained in the reply are not correct or tenable and have already been met in the written statement of this defendant and in any case are not matter which the Civil Court can consider nor can they form the subject matter of trial in this suit.

6) The defendant denies the allegations in the plaint and reply except those expressly admitted herein and in the written statement.

B. Vasudeva Murthy,
Government Pleader.

Bangalore,

Dated, 3rd Nov. '43.

Defendant.

V E R I F I C A T I O N.

I the defendant, abovenamed affirm that the foregoing is true to the best of my knowledge and enquiry.

Advicate for
Defendant.

Defendant.

Copy of issues in O.S.45/42-43.

1. Whether the plaintiffs are legally entitled to insist that the suit property should not be used as a burial ground after the construction of the Tower of Silence.

2. Whether the plaintiffs are estopped in law from bringing the present suit by reason of the order of Government dated 10-1-39.

3. Whether the suit is not maintainable for any of the reasons set out in para 2 of the defendant's written statement and rejoinder.

4. Whether the suit is barred by section 9 of the C.P.C. for the reasons set out in para 16 of the defendant's written statement.

5. Whether the order of resemption dated 20-3-42 passed by Government is illegal and whether it can be set aside by this Court.

6. Whether the plaintiffs are entitled to any and what damages To what reliefs are plaintiffs entitled.

Sd/ B.Vasudevamurthy,
Advocate,
(Government pleader)

P. VASUDEVA MURTHY, B.A., LL.B.
Advocate & Government Pleader

75, Chickpet,
BANGALORE CITY

No. 558

Date Feb. 4, 1944.

The Secretary to Government,
Law Department,
Bangalore.

Sir,

O.S.No.45 on the file of the Dt.Court.T.K.Palia & another -vs-Government.

I have the honour to forward you herewith 1) objection statement to the plaintiff's application for examination of some witnesses on commission and 2) an application by the defendant praying that the issues of law may be heard and disposed off before taking evidence. These statements may kindly be got signed by the Chief Secretary to Government and returned IMMEDIATELY. The case stands posted to the 7th instant.

I have the honour to be,
Sir,
Your most obedient servant,

P. Vasudeva Murthy,
GOVERNMENT PLEADER.

not of a civil nature or that the suit is otherwise not maintainable

The plaintiffs are not entitled as of right to have their witnesses examined on commission as - there by the court will be prevented from seeing - the important witnesses. It also involves good deal of expense of public money and trouble to the defendant.

The examination of witnesses on commission cannot be ordered by the plaintiffs as of right and they must satisfy the court that their evidence is - necessary and cannot be dispensed with or substituted by other proof

In any event the plaintiffs are bound to deposit in court funds sufficient to enable the defendant to arrange for representation by counsel for some - Government officer to travel from here to various - places in British India to be present at the time of the examination on commission. The commission is entirely unnecessary at this stage and the evidence of these witnesses can be easily substituted by other evidence hereafter if at all relevant

The suit is against Government and not on another Parsee organization and the court cannot be made a forum for decision of religious question of the Parsee community in the light of the pleas advanced by Government in the written statement particularly paras 14 to 18.

The plaintiffs are not entitled for issue of a commission especially at this stage and their application is liable to be dismissed with costs.

5th Jan.1944. DEFENDANT.

In the Court of the District Judge, Bangalore.

O. S. No. 45 of 42- 43.

E.K.Palia A[illegible]nthan -Vs- Government of Mysore.

Under Order 14 rule 2 of S.151 of C.P.C. the defendant beng to state as follows:-

This defendant has already pleaded that the question regarding the mode of the disposal of the dead among the Parsis is absolutely a religious question and cannot be tried by a Civil Court under P.9 of the C.P.C. The defendant has further pleaded that the suit is not maintainable for several reasons stated in the written statement, the important among them being

1) that the plaintiffs cannot sue on behalf of an inchoate and unregistered body of persons

2) that all the trustees have not joined as plaintiffs

3) that by certain orders of Government, the plaintiffs are estopped from bringing this suit and

4) that the suit is barred under the provisions of the Land Revenue Code etc.

This defendant submits that the issues 1 to 5 raised on the pleas in paras 2 and 15 to 18 of the written statement can be argued straight away and the suit disposed off without going into the highly controversial and confusing religious questions raised by the plaintiffs.

One of the pleas raised is that all the trustees are not made parties to the suit, this suit

If the plaintiffs say that any preliminary evidence is necessary before these issues can be decided this defendant has no objection to the parties being examined and the necessary documents put in and then the question of law argued.

This defendant therefore prays that before taking evidence in the case the issues of law No.1 to

Section Laws

File No. 257-42

Serial No. 11

Diary No. of letter replied to.....

No. P.4920
Ex I

To

The District Judge
Bangalore Division
Bangalore

General and Revenue Secretariat

( )

the *194*

Date of issue.... 4.2.44

Signed by..... Mr K.P.P

Subject:- C.S.no.45/42-43 on the file of the District Judge Bangalore.

Sir,

With reference to your ~~letter~~ memo no XX dated 20.1.1944 on the above subject, I am directed to return herewith duly signed the original witness summons received from you and to state that the duplicate has been forwarded to the Govt Pleader Bangalore District for necessary further action.

Thanks

List of enclosures.....

Copied by.....

Examined by.....

WD 04161—GPB—60,000—24-10-41

P.4971/Ex I

In Secs D Govt Law Dept

Copy to Govt Pleader Bangalore with the

6026 f 43 75 Chickpet

63, BAZAAR STREET
BASAVANGUDI P.O.
BANGALORE CITY

Date 14. 2. 44

To

The Secretary to Government
Law Department
Bangalore

By 26/2/

Sir,

Re: O.S. 45 of 42-43. District Court. Bangalore. Palia & Govt of Mysore

I have the honour to forward herewith copies of the reply and objection statements filed by the plaintiff. The case is posted to 26th inst for arguments on the Interlocutory applications.

I have the honour to be
Sir
Your most obedient Servant

V as undersigned

Govt. Pleader
Bangalore

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In the Court of the District Judge, Bangalore.

O.S. No. 45 of 1942-43

Plaintiffs:- Messrs. M.K. Paliah and another.

Defendant:- Government of Mysore.

The plaintiffs beg to file the following reply to the defendant's objections in respect of plaintiff's application for examination of mofussil witnesses on commission under Order XXVI rule 4, C.P.Code.

1. The defendant's statement is argumentative and evasive.
2. The witnesses reside beyond the jurisdiction of this court, their evidence is necessary for a proper disposal of

Mr Bulday

2523 pf 44 Bangalore 26.9.44
30
Law 257-44-12

From

M. B Vasudeva murthy
Govt Pleader
Bangalore

To Secretary to Govt.
Law Dept
Bangalore

Law

GOVT OF MYSORE

Sir,

Ref OS. 45/43-44 Dt. C'
B'lore

I have the honour to forward herewith a certified copy of the order passed by the Addl. D. judge on I.A. 10. in the above case. The case stands posted to 25.10.44. The Govt may if it chooses file a revision against the order.

I have the honour to be
Sir
Your most obedient Servant

B Vasudeva murthy
Govt. Pleader

P. 2362/D. 7th D 23-10-44

Law 257-42-13 To

The Govt. Pleader
Bangalore.

Re: O. S. no. 45 of 43-44
on the file of the ~~High Court of Mysore~~ Dt. Court, D'lore Dt.

Sir,

With reference to your letter no. 306, dated ~~20~~ 30. 9. '44, suggesting that a Revision Petition may be filed in the High Court against the order, dated 19. 9. '44, in the above case I am directed to ~~state~~ request you to inform the Court that Govt. have no objection for the Commission to issue but that a fortnight's time may be granted in order to engage a proper Counsel ~~to Conduct~~ for the examination ~~on their behalf~~ and also to see if any witness on their side ~~also~~ have to be examined on

Secretary

B. VASUDEVAMURTHY, B.A., LL.B.
GOVERNMENT PLEADER

75, CHICKPET.
BANGALORE CITY

No. 424

Date 6th Novr. 194..

To

The Secretary to Government,

Law Department, Old Public Offices, Bangalore.

SECY. TO GOVT OF MYSORE 7/11/44

Sir,

Re. O.S.45/42-43.Dt.Court,Bangalore, Patla. vs. Government of Mysore.

I have the honour to inform you that the warrant of mmission in the above case is ready and may be despatched ortly.

The witness to be summoned in Karachi is Shams-ul-ulma stoor Dr.M.N.Dhalla, M.A.,Ph.D., 258, R.A. Lines, Karachi d the warrant will be sent to the Registrar, Chief Court of ndh, Karachi. The plaintiffs have suggested the following rsons to act as Commissioner?- 1. Sir Cowasji, H.Katrak,Kt., B.E., J.P., Katrak Buildings, Karachi and 2) Khan Bahadur deshir H.Mama, near Frer Hall camp, Karachi.

The witness to be examined in Bombay are

Dastoor Kaikeroo Mahajar Kutur,M.A., Head Parsee priest in Bombay, Rustam and Amagiari, Parsi Colony, Dadar-Bombay.

Ervad Kurshed Shahooji Daboo, M.A., Principal, Parsi Orphanage;scholar in Avastha Pahclais, Surat.

Dr. Jamshed Maneckji Unwalla,Ph.D., Research Scholar in Avasta Patilair, Maniapurm, Navasari.

Dastoor Nasherwan Kaikobad, J.P., Dastoor Hall, Poona.

The plaintiff has suggested that one of the following y be selected as Commissioner.

1. Prof. Sorab R.Davar, Principal, Davar's College of Commerce, Bombay.

2. Mr. N.R.Mulla, Solicitor, 51, Mahatma Gandhi Road, Bombay.

The warrant will be sent to the Chief Judge, of the court of Small causes, Bombay.

The choice of the Commission will be by the court to which commission is sent. Please let me know immediately the names and addresses of any witnesses whom the defendant may wish to examine on commission so that I may apply in time before 11-11-44. I propose to suggest that the examination of witnesses may be by open commission, as an examination on interrogaties would neither be suitable nor practicable in the circumstances of this case and the evidence that the witnesses are likely to give and the cross examination to which they may have to be subjected.

It is necessary immediate arrangements should be made to engage counsel in those places, i.e. Bombay and Karachi to conduct the examination of witnesses and for that purpose, I would suggest that a responsible officer of the Government may be deputed to go to those places to engage and instruct the counsel. If the Government tries to engage a counsel by correspondence, it is very likely that a proper counsel may not be secured and that the counsel may demand exhorbitent fees, seeing that the Government is a party. It is therefore, very desirable that a Government officer should go to those ~~xxxxx xxxxx~~ places personally engage a counsel, in which case a suitable counsel may be engaged on reasonable fees. It is also necessary and desirable that an officer who is well acquainted with the ~~circumstances~~ customs and practices of Parsees has to be deputed so that he may be able to instruct the counsel properly as the case is a very complicated and it would not be possible to instruct by correspondence. I would suggest that Mr. K.P.Poonegar, Assistant Secretary, Law Department, may be deputed for the purpose if the Government can conveniently do so. The case has become sational and is a very important one in which the prestige of Government and the elementary rights of a largesection of the progressive elements among Parsees in the State are involved and hence my anxiety that the case should not suffer by any

No P 2765 &) 8. 11. 1944

To

The Govt. Pleader,
Bangalore

Re: O.S. No. 45 of 42-43
on the file of the Dt
Judge, Bangalore Dist

Sir,

With reference to your
letter no. 424, dated 6.11.'4
on the above subject, sugge
that the examination of witness
may be by open Commission,
I am directed to state that
instead of open Commission,
the witnesses may be examin
by interrogatories if both sid
agree; and that if this
Commn
is not possible, ~~a real plea~~
Letters on Behalf of Govt
will have to be engaged
and instructions issued from
here.

Thanking etc.,

for Secretary to
Govt. of Mysore

B. VASUDEVA MURTHY, B.A., LL.B.
Advocate & Government Pleader

75, Chickpet,
BANGALORE CITY

No. G.P.440 10.11.44 Date 10-11-44

Secretary to Government
Law Department.
Bangalore

Sir

Re: O.S. 45/42-43. Dt. Court. B'lore
Palia v. Govt: of Mysore

I have the honour to forward herewith the application for the issue of Commission in the above Case for favour of the Signature of the Chief Secretary and immediate return. The case is posted for tomorrow.

I have the honour to be
Sir
Your most Obedient Servant

P.V. Vasudeva Murthy
Govt Pleader
Bangalore

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

No. P. 2777/Rev.1. General and Revenue Secretariat,
Bangalore, 10.11.44
Law 257-44-15

From

The Secretary to the Government of His Highness
the Maharaja of Mysore,
Law Department.

To

The Government Pleader,
~~The Public Prosecutor~~ Bangalore.

Sir,

Subject:- O.S. No. 45/42-43
on the file of the
Dt. Judge, Bangalore

With reference to your letter G.P.1 No. 440 dated 10/11/1944, on the above subject, I am directed to return herewith the ~~Vakalath~~ App ~~Written Statement/Issues~~/duly signed ~~approved~~.

I have the honour to be,
Sir,
Your most obedient servant,

For Secretary to Government,
Law Department.

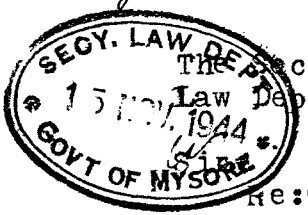
3827 644

B. VASUDEVA MURTHY, B.A., LL.B.
Advocate & Government Pleader

75, Chickpet,
BANGALORE CITY

No. G.P. 450 Law Dept. Date Nov. 13, 1944..

for 13.11.44



The Secretary to Government,
Law Department, Bangalore.

Re:O.S.No.45 of 42-43.Dt.Ct.B'ore.
Palia & another -Vs-Govt.of Mysore.

I have the honour to inform you hat the application (I.A.No.6) on - behalf of the Government for examination of its 2 witnesses at Bombay on Commission was filed on the 11th and the Judge ordered that those witnesses may be examined on commission and also ordered that the choice of the Commissioners may be left to the Courts to which the Commission warrants are sent. The Judge however ordered that as there was already a considered orddr by his predecessor that the examination should be by open Commission and hence, the request for holding the same by interrogatories was not allowed. The judge - has posted the case to the 9th Proximo for the return of the warrant of commission. The Government would have to deposit Rs.100/- for the examination of these two witnesses as a first instalment. Please arrange to heteme have the necessary funds.

I have the honour to be

Sir,

Your most obedient servant,

B Vasudeva murthy

GOVERNMENT PLEADER.

To P 3078/Law
dated 23/11/'44.

Law 257-42-16 The Deputy Commissioner
in Bangalore Dt.,
Bangalore.

Re: O.S. no. 45 of 42-43
on the file of the Dt. Judge,
Bangalore Division.
Chalia and another Vs. Govt. of Mysore

Sir,

I am directed to enclose a Copy of letter no. G.P. 450, dated 13.11.'44, from the Govt. Pleader, Bangalore requesting that arrangements may be made to deposit Rs 100/- as a first instalment towards expenses in connection with the examination of certain witnesses on Commission, and to request you, in the circumstances, to immediately send the necessary amount to the Govt. Pleader so as to enable him to deposit the amount in Court.

I have etc.,
for
for Secy to Govt

B. VASUDEVA MURTHY, B.A., LL.B.
ADVOCATE & GOVERNMENT PLEADER

45, Chickpet,
BANGALORE CITY

47/46

NO. G.P.579

DATE 13.1.47

Urgent

13/1/47

The Secretary to Govt.,
Law Department,
Bangalore.

Sir,

Re:C.S.No.45 of 42-43.
Dt.Court, Bangalore.
Palia and another -Vs-
Government of Mysore.

I have the honour to send herein enclosed a copy of the letter addressed to the Registrar, Court of Small Causes, Bombay, which speaks for itself. I would again stress on ~~Govt~~ the necessity of immediately deputing ~~of~~ a suitable officer of Government to attend to this matter in time.

I have etc.

B. Vasudeva Murthy

GOVERNMENT PLEADER.

G.R. 578

18.12.44

December 18, 194

The Registrar,
The Court of Small Causes,
Bombay.

Sir,

O.S.No.45 of 42-43.Dt.Court.
Bangalore. Palia & another
-Vs- Government of Mysore.

I have the honour to bring to your notice that in the above case the District Judge has issued commission to the court of Small Causes for the examination of certain witnesses at Bombay. The Government of Mysore who happen to be the defendants have not heard from the Commissioner who might have been appointed by the court and also as to the time and place of the examination. But yesterday I was informed that a telegram has been received purporting to be issued by you, stating that the examination on commission would be held on 16-12-1944 at the time and place already notified. No time and place have been notified before to the defendants in the case nor intimated to the District Judge. Obviously, proper procedure for the Commissioner would have been to issue notice formally to the parties giving sufficient time for them to get ready. We do not know whether the telegram was issued from you. I am therefore to request you to forward this letter to the Commissioner

as I do not know who he is and ~~xmaka~~ ask him to adjourn the matter by a fortnight and fix a date early in January to enable the Government of Mysore to make arrangements by engaging a counsel to examine and cross examine the witnesses. The Commissioner may be instructed to notify the chief to Government of Mysore, Public Offices, Bangalore City or to myself at the above address

I beg to remain,
Sir,
Your most obedient servant,

GOVERNMENT PLEADER.

c/o N. H. Postmaster Esq
Queen's Court,
Queen's Road,
Ballard Pier,
Bombay, 15.12.44.

Dear Mr. Markby,

I have received your letter of the 13th inst. sent by Mr. Marker. In response to Mr. Marker's wire of the 13th I sent an express on the 14th: "Post Madan will on the immediately copies Application for Commission affidavits & order issuing commission. Post Vakeel Amaras appointing Bagrat & Co, Solicitors." I hope this has been already acted upon. Yesterday I also wrote a detailed letter to Mr. Marker. I trust it will be shown to you by Mr. Marker.

I was informed by Dorina Stella that his evidence had been fixed for the 23rd inst yesterday & he was served with a summons to appear on

on 16th (to-morrow)
this date does not
hiw, I certainly
I heard about this late
last night. I had a phone
talk with Mr. Jayakar
Solicitor this morning I.
saw him & both of us
went — Small Causes
Court — met Mr. Phiroze
Dalal, Pleader, who has
been appointed commis-
sioner, & also Mr. Chim-
walla who is appearing
for the opposite side.
There are various diffi-
culties about securing an
adjournment & so we
have agreed that Desai
shall's examination
in chief can come off
to-morrow & the cross-
examination will come off
on a day ~~fixed~~ to be fixed
up to-morrow so as to suit
all parties concerned...
with the commencement of
that. Chimanlalla have
agreed to the appearance

of Mr. Gagrat on our behalf
pending the receipt of
the formal vakalatnama.

Before I left Bangalore
I was told by Mr. Menkes
Mr. Ponnegar & yourself
that I should select a
lawyer here & that
the Govt. would appoint
him. Mr. Menkes was
also asked me to engage
a lawyer immediately
I have acted on these
instructions & it is for
you to see that Messrs.
Gagrat & Co., Solicitors,
are duly sent their
vakalatnama. I don't
at all see the point
of your letter that
the Lawyer should
write to you or to Govt.
& then the vakalatnama
would be sent to him.
This is very very odd

I do not wish to make
a request to the
the respectable &
respecting lawyer will
ask to be heard. It is
for the Govt. & magistrate
to request him to take
up the case & legal
no misunderstanding
will arise in future
on this score. I have
not the slightest
desire to hurt their
and insi-

B. VASUDEVA MURTHY, B.A., LL.B.
Advocate & Government Pleader

75, Chickpet,
BANGALORE CITY

No. ..... Date .....

Rec'd
Reply awaited
for Govt. Counsel
Opinion
M/

The Secretary to Government,
Law Department,
[illegible].

Dear Sir, O.S 45/41-42

Enclosed please find [illegible]
for which you may get it duly -
signed by the Chief Secretary to
Government and forward it to [illegible]
Advocate at Bellary. I am also -
enclosing such of the papers as
are available with me relating to
Commission, which are referred to
in the telegram enclosed.

Yours faithfully,
B Vasudevamurthy
[illegible]

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

(Prefix) _____ No.

Recd. from _____ Sent at _____ H. _____ M. Office Stamp.

By _____ To _____

By _____

Handed in at (Office of Origin) | Date | Hour. | Minute. | Service Instructions. | Words

BOMBAY 14:2 | | | |

POONEGAR ASST LAW SECY PUBLIC OFFICES BANGALORE.

POST MADON IMMEDIATELY COPIES APPLICATION

COMMISSION AFFIDAVITS AND ORDER ISSUING

H. F. MARKER, Esqr.,
Honorary Secretary,
Parsi Burial Ground
Managing Committee,

23, Grant Road,
Bangalore, 18/12/1944.

To

The Chief Secretary to the Governmen
of Mysore, Bangalore

18.12.44

Dear Sir,

With reference to my conversation to-day with the Law Secretary to Government, I agree to bear all the costs of the present commission including the fees of the Counsel in the case filed by the Parsi Anjuman of Bangalore against Government for the possession of the Parsee Cemmetry.

Yours faithfully,
H.F. Marker
Hon. Secretary.

Rustom Gagrat Esq.,
C/o Messrs. Gagrat & Co.,
Solicitors,
Tamarind Lane, Fort,
Bombay.

Dear Sir,

Re: O.S. 45/42-43 Dist. Court, Bangalore,(Palia & another Vs. Govt. of Mysore).

As instructed by Mr. A.R. Wadia, Retd. Director of Public Instruction in Mysore, I am sending you herewith a vakalat duly signed by the Chief Secretary to Govt. of Mysore to be used before the Commissioner, which I trust you will find in order. Mr. Wadia has written to me that he has given instructions in the matter.

Please advise me as to the future progress of the case before the Commissioner to enable me to report to Government.

Thanking you I am

Youre faithfully,

Govt Pleader

A
K/

601 Copy to The Secretary to Govt Law Dept for information

5312/44

B. VASUDEVA MURTHY, B.A., LL.B.
ADVOCATE & GOVERNMENT PLEADER
15, Chickpet,
BANGALORE CITY

NO. 615 DATE 26-12-44.

The Secretary to Govt.
Law Department,
BANGALORE.

Sir, 30/12

Re: O.S. 45/42-43 Dist. Court
Palia & another v. Govt.

I have the honour to send you herewith copy of a letter receive from Messrs. Gagrat & Co. Solicitors, Bombay, in the above case and my reply to them in the matter, which I trust you will find in order.

Yours faithfully,

P.V. Vasudevamurthy

GOVT. PLEADER.

K/
Encl: 2.

Copy (Rep)

B. VASUDEVA MURTHY, B.A., LL.B.
Advocate & Government Pleader

75, Chickpet,
BANGALORE CITY

No. .....

Date 26th Decr. 1944.

Messrs Gagrat & Co.,
Solicitors,
Alli Chambers, Medows Street,
Bombay.

Dear Sirs,

Re: O.S. 45/42-45 District Court,
Bangalore Palia & another v.
Government of Mysore.

I have to acknowledge receipt of your letter dated the 22nd inst.

Mr. Wadia has informed me and the Govt. that you would conduct the case. He has not said anything about engaging Mr. Mistri The rates of Mr. Mistri are very high and I am unable to take any responsibility in the matter of his fees until the Govt. expressly give me instructions in the matter. Please therefore do not engage Mr. Mistri until you hear from me or from the Govt. again.

It was understood that you would conduct the case and that your terms were fixed by Mr. Wadia.

As regards instructions, Mr. Wadia and his friends were requested to give instructions.

The Government does not want copies of notes of evidence taken by the Commission We will take them hene later on.

As this is a matter in which Govt. is a party, we have to proceed carefully before incurring any expenses and I would sug-

suggest your writing to the Chief Secretary to Govt. of Mysore, Public Offices, Bangalore as I have no authority in these matters. The Offices are closed here for the Christmas Holidays and I am unable to obtain any instruction as regards the engagement of Mr. Mistri.

In this connection, I have wired you today as follows:

"Don't Engage Mistri -- Govt. Pleader"

Yours faithfully,

Copy of letter dated 22-12-44, received from the Messrs Jagrat & Co., Solicitors, Alli Chambers, Medows Street, Bombay, by the Govt. Pleader, Bangalore.

Re: Dist. Court, Bangalore; O.S. 45/42-43;
Palia and another v. Government of Mysore.

We have to acknowledge receipt yesterday of your letter of the 19th instant, sending the vakalathnama for which we thank you.

On the 14th inst. Prof. Wadia instructed us to represent the Govt. of Mysore at the hearing of the Commission. On making enquiries we were informed that the first hearing was fixed on the 16th inst. at 11 a.m. as Dastoorji Dhalla who was here was likely to leave Bombay for Karachi The writer saw the Commissioner Mr. Phiroze Dalal, Advocate (A.S.) appointed by the Chief Judge of the Small Causes Court and Mr. Chinivala Advocate for the plaintiffs with Prof. Wadia. It was arranged to proceed with the examination-in-chief of Dastoorji Dhalla on the 16th inst. Accordingly Dastoorji Dhalla was examined for two hours and the hearing adjourned to the 18th inst at 10 a.m. Examination-in-chief of Dastoorji Dhala was taken and concluded on that day and the writer commenced his cross-examination and the hearing now stands adjourned to 3rd January 1945 at 11 a.m. It became necessary to proceed with Dastoorji Dhala's evidence because he is leaving for Karachi, as at present fixed, about the 4th Jan. 1945

As a result of discussion, we have informed Prof. Wadia that having regard the importance of the case it was advisable to instruct a Counsel to appear before the Commissioner. Subject to your Government's sanction, we saw Mr. Murzban J. Mistry Advocate (O.S.) High Court, Bombay, and he agreed to appear if he was paid at the rate of Rs 75/- per hour and provided that hearing of the Commissioner would be taken up after the Court hours, which we are informed would be the case. We understand that Prof Wadia has already written in the matter. We shall be glad to hear from you in the matter.

If Government so desire we will furnish to you copies of the notes of evidence taken down by the Commissioner from time to time.

If you have to send any instructions for examination of witnesses at this end from the point of view of the conduct of the case at your end, please send them to us.

Copy to the Law Secretary to Govt. Bangalore for information.

27th Decr. 1944
Bangalore City.

513/45

B. VASUDEVA MURTHY, B.A., LL.B.
ADVOCATE & GOVERNMENT PLEADER

..., Chickpet,
BANGALORE CITY

NO. 52

DATE 12.7.45

The Secretary
Law Department,
Bangalore.

Government,
1447

Sir,

Re:O.S.No.45 of 42-43.Dt.Ct. Bangalore. Palia -Vs-Govt.of Mysore.

I have the honour to inform you that the above case is - posted to 25-7-1945 for awaiting the return of commission from Bombay and other places and posted to 31st instant for evidence.

I have etc.

B Vasudeva murthy

Government Pleader.

B. VASUDEVA MURTHY, B.A., LL.B.
ADVOCATE & GOVERNMENT PLEADER

137/45

75, Chickpet,
BANGALORE CITY

No. 125

DATE 2.8.45

3/8/45

The Secretary to
Government, Law Department,
Bangalore.

Sir,

Re: C.S.No.45 of 42-43.
Dt. Ct. Palia & Kapadia
-Vs- Government of Mysore.

I have the honour to inform you that the above suit stands posted to 16.8.1945 for evidence.

I have etc.

B Vasudeva murthy

Government Pleader.

B. VASUDEVA MURTHY, B.A., LL.B.
ADVOCATE & GOVERNMENT PLEADER

75, Chickpet,
BANGALORE CITY

NO. 369 h 1909

DATE 9-10-45.

To

The Secretary to Government,
Law Department, Bangalore.

Sir,

Re.O.S.No.45/42-43.Dt.Ct.B'lore.
Parsi Fire temple case.

I have the honour to inform you, that the above suit stands posted to 2-11-1945 as the Judge had gone to Tumkur for sessions.

I have the honour to be,
Sir,
Your most obedient servant,

K Nanjundarao
adv
for Mr. B. Vasudeva murthy
Government Pleader.

Hld.
The G.P. reports that the case stands posted to 2.11.'45.
For perusal.
M.
19/10.

WD 02308—GPB—20,000—10-8-43

Civil

Form No. 105

FROM The District Judge, Bangalore District
Bangalore

To The Chief Secretary to Government of Mysore
Bangalore

XX 1307

Sir,

I have the honour to forward herewith witness.

Summons, in duplicate in OS 45/42-43 ~~No.~~

~~of 19~~ on the file of this Court and to request that you will be so good as to cause the duplicate to be served on ~~the individual therein~~ yourself named and the original returned to this Court with due endorsement of service thereon, on or before the date of hearing. 1e 29-11-45

Law Dept
SECRETARY
CHAMBERS
21 NOV 1945
GOVT. OF MYSORE

A sum of Rs. 0-12-0 will be paid in Court ~~is herewith sent~~, being witness batta.

I have the honour to be,
Sir,
Your most obedient servant.

To

The District Judge,
Bangalore Division,
Bangalore

No. 45/42-43
on the file of the St. Court,
B'lore Division.

Sir,

I am directed to return here-
with the Summons in the above case for the production
certain documents mentioned
in the particulars of the
documents ~~mentioned in the~~ ~~Summons~~ are
not ~~sufficient to trace them~~

Fresh summons may therefore
be issued with fuller details
of the documents required
to be produced before Court.

I have etc.,

for Secy. to Govt.,
Home Dept.

685/Home. Law 257-42-17 Ag 14-

16229—GPB—20,000—16-5-44

Civil

Form No. 105

FROM The District Judge Bangalore Division Bangalore

To The Joint Chief Secretary to Government of Mysore Bangalore

26 XX 1493

Law Secy's Office Sep, 1945

RV

I have the honour to forward herewith vakil's

Summons, in duplicate in G.J. 45/42-43 ~~No.~~

~~of 19~~ on the file of this Court and to request that you will ~~be so good~~ as to cause the duplicate to be served on ~~the individual therein named~~ plaintiff and the original returned to this Court with due endorsement of service thereon, on or before the date of hearing. 16-12-45

Next on 14/12

A sum of Rs. 0-12-0 will be paid at Court is ~~herewith sent~~, being witness batta.

Bangalore
10-12-45

I have the honour to be,
Sir,
Your most obedient servant,
N. Samadyengar
Dist Judge

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form*).

Law 257-42-18

578/Law.

C. 2

To 6/12/45

The District Judge,
Bangalore Division,
Bangalore.

Re: O. S. No. 65/42-43 on the file of the D. J., B'lore Div.

Sir,

With reference to letter No. XX, 1493, dated forwarding summons in the above case for production of certain documents before Court on 14.12.45 I am directed to return herewith the summons unserved for want of time as it was received only on 13.12.45

Fresh summons may be sent with at least a ~~fortnight's~~ week's time to trace the documents in question.

I have
for
Secretary to Govt.

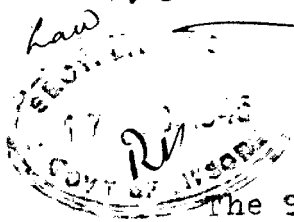
asudevamurthy, B.A., LL.B.
Late & Government Pleader
75, Chickpet
BANGALORE CITY

735 Law

Dated December 15, *1945*.

No 652

Hg 20-12-45



The Secretary to Government,
Law Department,
Bangalore.

Sir,

Re:O.S.No.45 of 42-43.Dt.Ct.
Palia & another-Vs-Government
--oo--

I have the honour to inform you that in the above suit the plaintiff - has closed his case after the examination of a number of witnesses. The Government has to begin. There are - number of Government orders and letters and other correspondence which are to be produced to Court from the concerned Government files. I have therefore to request you to depute some official of the Secretariat to meet me and go through the papers and appear in court and give evidence with reference to the documents and to have them marked. As the case is a very old case, I request that the matter may be treated as urgent.

I have the honour to be
Sir,
Your most obedient servant,

P V Vasudevamurthy
Government Pleader.

ROUTINE NOTES

[To be used only for notes, requisitio··· ·tc., not intended for permanent record.

B. VASUDEVA MUI
ADVOCATE & GOVERNMENT PLEADER

75, Chickpet,
BANGALORE CITY

NO. 757 DATE 26-1-46.

To
The Secretary to Government,
Law Department, Bangalore.

Sir,

Re. Palia Vs. Govt.of Mysore.

I have the honour to request you to depute Mr.K.M.Krishnaswamy for being examined as a witness in the above case on Monday 28-1-46. He may be instructed to meet me in my office on that day by 9.30 a.m.All the relavent documents on our side will have to be exhibited through him.

I have the honour to be,
Sir,
Your most obedient servant,

B Vasudevamurthy

Govt. Pleader

To
The Secretary to Government,
Law Department, Bangalore.

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Sir,
Your most obedient servant,

B Vasudevamurthy

Govt. Pleader.

28/1/46.

VASUDEVAMURTHY, B.A., LL.B.
ADVOCATE & GOVERNMENT PLEADER

75, Chickpet,
62, BAZAR STREET.
BASAVANGUDI P.O.
BANGALORE CITY.

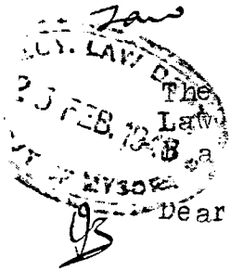
834

174/Law

Date Feb.23, 1946.

Law 257-42

834 Law



The Secretary to Government,
Law Department, Public Offices,
B a n g a l o r e.

Dear Sir,

Re:O.S.No.45 of 42- 43.Dt.Ct.
Palia-Vs-The Government of Mysore.
The Parsi Burial ground matter

I have the honour to infrom you that the above case has been dismissed with costs, judgment being pronounced on 21.2.1946.

I have returned to you all the files which I received from the Government. They include some files of the Deputy Commissioner's office and Revenue Commissioner's office. Such of the papers have been filed in the case as exhibits from out of the files will have to be taken back from court, after any appeal which may be filed is disposed off.

Please acknowledge receipt of the files.

I have etc.

P.Vasudevamurthy

Government Pleader.